

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

RECEIVED FOR FILING

NOV 24 1970

Office of Administrative Procedure

ENDORSED

APPROVED FOR FILING
 (GOV. CODE 11380.1)

NOV 24 1970

Office of Administrative Procedure

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Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

State Department of Social Welfare
 (Agency)

Dated: November 23, 1970

By: *Robert H. Hunt*

Director

(Title)

FILED

In the office of the Secretary of State
 of the State of California

NOV 24 1970

At 8:25 o'clock P. M.

W. H. P.
 Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

FINDING OF EMERGENCY

The amendment of Section 44-239, Manual of Eligibility and Assistance Standards, is an emergency measure necessary for the immediate preservation of the public health, safety and general welfare within the meaning of the provisions of Section 11421(b) of the Government Code.

The following facts constitute the emergency:

1. Welfare and Institutions Code Section 13700 prohibits an allowance for attendant services provided by a responsible relative with whom an Aid to the Needy Disabled (ATD) recipient lives.
2. Chapter 1432, Statutes 1970, effective November 23, 1970, amends this section to provide a special need allowance for attendant services provided by a responsible relative of an ATD recipient under certain specified circumstances. This legislation is intended to relieve the extreme hardship created in cases of the severely handicapped ATD recipients who require 24-hour care and whose needs could not otherwise be met except by institutionalization.
3. In order to implement promptly the beneficial provisions of Chapter 1432, Statutes 1970, and to bring Department regulations into conformity with state law, the amendment to the regulation described above must be adopted effective December 1, 1970.

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4. Failure to adopt this amendment as an emergency measure will result in continuing the extreme hardship which was to be relieved by the legislative amendment. Furthermore, such failure will result in the establishment of a substantial conflict between state law and Department regulations.
5. Denial of the benefits conferred by the State Legislature which allows the existence of a conflict between state law and regulations, even temporarily, would have an adverse effect upon the health, safety and general welfare of the persons affected and thereby the people of the State of California.

Adoption of the above-described amended regulation is, therefore, required effective December 1, 1970.

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(Pursuant to Government Code Section 11380.1)

44-239 SPECIAL NEED FOR ATTENDANT SERVICES (Continued)

44-239

.211 Attendant Service Provided by a Parent, Spouse, or Adult Child

AB
OAS
ATD

Allowance shall not be made for attendant services provided by a parent, spouse, or adult child unless such relative is able to work but is unable to accept employment or must relinquish employment in order to care for the disabled recipient.

ATD

The following additional limitations are also applicable in ATD. Allowance for attendant services provided by the spouse of the recipient or by a parent of an ATD recipient under the age of 21, when the recipient lives with such relative, will be made only when:

- a. The service required is not domestic help but is substantial personal care such as assistance with bathing, dressing, ambulation, preparation of special diets or assistance with eating, assistance with medication (though not the administration of) or close supervision because of faulty or impaired memory or mental retardation, and
- b. An allowance for attendant services is necessary to prevent institutionalization of the recipient, and

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44-239 SPECIAL NEED FOR ATTENDANT SERVICES (Continued)

44-239

ATD |

c. The attendant service cannot be obtained from any person other than the parent or spouse. It is reasonable to conclude that the service cannot be obtained from a person other than the relative if:

- (1) The geographical isolation of the recipient's residence precludes the employment of an attendant from the community, or
- (2) The physical or mental impairment of the recipient is of such severity as to require an attendant to be present more than the ordinary working day or workweek, or
- (3) The only other qualified attendant available in the community is a person of the opposite sex and the service required is so personal in nature that provision of the service by such other attendant would cause acute embarrassment and indignity to the recipient.

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(Pursuant to Government Code Section 11380.1)

CORRECTORY AMENDMENT

(Through clerical error, the effective date was incorrectly entered on the regulations as 2/1/71 conflicting with the Finding of Emergency filed 11/19/70 to become effective immediately upon filing)

44-265 ALLOWANCES FOR SPECIAL ITEMS IN AFDC FAMILY BUDGET

44-265

AFDC

.1 Clothing, Household Supplies and Essential Furniture

Allowance shall be made in the family budget to replace essential items specified in this section that are destroyed by fire, flood, earthquake or storm, or are otherwise essential to the health and safety of the family in accordance with guidelines issued by the State Department of Social Welfare:

- .11 An allowance of \$27 for each member of the family budget unit for clothing.
- .12 An allowance of \$12 for each member of the family budget unit for the replacement of bedding, dishes and kitchen utensils.
- .13 An allowance equal to the actual cost to the family not to exceed the amount indicated plus sales tax to replace the following:

Cook stove	\$100	Space heater	\$ 57
Refrigerator	\$150	Double bed, including mattress (for two persons)	\$ 103

.2 Special Diet

- .21 Allowance for a special diet shall be authorized when a doctor or other practitioner recommends one or a combination of the diets listed below, except that final determination of the need for a therapeutic diet may be based on consultation with the county medical consultant. Notwithstanding Section 44-265, the allowance may continue for no more than one year unless continuation is resubstantiated as provided above.

No allowance shall be authorized for a special diet other than one of those listed below nor shall the amount allowed for a combination diet exceed that specified for the highest cost diet included in the recommended diet plan.

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(Pursuant to Government Code Section 11380.1)

Correctory Amendment (Continued)

44-265 ALLOWANCES FOR SPECIAL ITEMS IN AFDC FAMILY BUDGET (Continued) 44-265

AFDC .22 The amount for additional cost of a therapeutic diet shall be as follows:

\$15 Diabetic, 2200 calories or more
High caloric - high protein (including special formula
for infant)
Lactation (while breast feeding)

\$ 9 Diabetic, under 2200 calories
Bland
Low fat - low cholesterol
Low salt (sodium, under 3 grams)
Pregnancy (from 4th month)

.3 Allowances shall be made for special items subject to the following conditions:

.31 The family shall request the allowance in writing and shall state:

- a. that the family has no liquid assets available to meet the emergency, and
- b. that to the best of its knowledge, the item is not available to the family without cost.

.32 The amount allowed shall be limited:

- a. to the actual cost to the recipient, not to exceed the amount specified for the item in Sections 44-265.1 and 44-265.2, and
- b. to the maximum state participation base specified in Section 44-313.

.33 The cost of special items, other than special diet, that do not occur monthly shall be allowed in a single month or prorated over not more than three consecutive months.

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(Pursuant to Government Code Section 11380.1)

Correctory Amendment (Continued)

The following regulations are to be repealed effective 11/19/70:

- 44-266 SPECIAL NEED FOR EXCESSIVE COST OF UTILITIES
- 44-268 SPECIAL NEED FOR TELEPHONE
- 44-270 SPECIAL NEED FOR CLOTHING
- 44-272 SPECIAL NEED FOR HOUSEHOLD SUPPLIES AND FOR ESSENTIAL EQUIPMENT
- 44-274 SPECIAL NEED FOR LAUNDRY
- 44-276 SPECIAL NEED FOR TRANSPORTATION ESSENTIAL TO HOME MANAGEMENT
- 44-278 SPECIAL NEED FOR HOUSEKEEPING SERVICE
- 44-279 SPECIAL NEED FOR THERAPEUTIC DIET

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Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

State Department of Social Welfare

(Agency)

Dated: December 1, 1970

By: 

Director

(Title)

FILED

In the office of the Secretary of State
of the State of California

DEC 1 - 1970

At 4:20 o'clock

M.


Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

10-072 FORMER AND POTENTIAL RECIPIENTS OF CATEGORICAL
PUBLIC ASSISTANCE (Continued)

10-072

- .26 The county welfare department may not make available to former or potential adult aid recipients any services, except those prescribed in Section 10-072.25, unless a federal waiver has been obtained by the State Department of Social Welfare.

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44-213 FAMILY BUDGET UNIT

44-213

AFDC .1 General Provisions

.11 To be eligible for AFDC, a child who is not in foster care must be living with at least one of the relatives specified in Section 44-213.21 in a place of residence maintained as his or their home.

The amount of aid for AFDC family groups shall be computed in accordance with Section 44-212 for the number of persons included in the family budget unit (see Section 44-213.3 and 44-213.4).

.2 Definitions

.21 The term "relative" means the following:

- a. Father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, first cousin once removed, nephew, niece, half-brother, half-sister, or any such person of preceding generation denoted by prefix of grand, great or great-great.
- b. Any person who legally adopted the child or adopted the child's parent, or the natural children or other adopted children of such person.

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44-213 THE FAMILY BUDGET UNIT (Continued)

44-213

AFDC

c. Legally married spouse of any person named above, even though the marriage has been terminated by death or divorce.

.22 The term "living with" shall include persons who would be physically in the home except for circumstances:

.221 That require temporary absence, such as hospitalization, attendance at school, visiting, vacationing, moving to another community, trips made in connection with current or prospective employment, active duty in the armed services, and similar situations, or

.222 That require granting assistance to the relative up to thirty days prior to the child's arrival in the relative's home from placement in a foster family home or institution.

.23 The term "needy person," as used in the following sections, means a person who has no income or who has net income that is less than the amount of the AFDC basic standard plus special need, as specified in Sections 44-212 and 44-265, respectively.

.3 Needy persons living in the home who shall be included as "recipients" in the same family budget unit, unless EXCLUDED by Section 44-213.5

.31 Children - all related eligible unmarried children, including the unborn child, for whom aid is requested by the child's parent or relative caretaker,

and

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44-213 THE FAMILY BUDGET UNIT (Continued)

44-213

AFDC

- .32 Parent - the eligible child's natural or adoptive parent who requests aid on behalf of the child,
- and
- .33 Parent's spouse - the spouse of the eligible child's natural or adoptive parent when at least one eligible child is deprived by the incapacity of a natural or adoptive parent, or by the unemployment of the natural or adoptive father (who meets federal conditions in Section 42-340.3), living in the home,
- or if there is no parent living in the home,
- .34 Relative - the needy adult relative, as defined above, other than a parent, who provides care and supervision of the eligible child.
- .4 Other needy related persons living in the home who may be included as "nonrecipients" in the same family budget unit with eligible children, unless EXCLUDED by Section 44-213.5
- .41 Upon the written request of the parent, or the caretaker if neither parent is living in the home, the following persons living in the home, if needy, shall be members of the family budget unit and shall have their needs and income taken into consideration in determining the amount of the AFDC payment to the family:
- .411 Unmarried brothers and sisters of the eligible child, including half- or stepbrothers and stepsisters.

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44-213 THE FAMILY BUDGET UNIT (Continued)

44-213

AFDC

.412 The eligible child's stepparent, when the child is deprived by the absence or death of a natural or adoptive parent.

.413 The eligible child's other unmarried parent.

.414 An adult relative, as defined in Section 44-213.21, other than the parent's spouse, whose presence is required to provide care and supervision that cannot be given the eligible child by the only parent living in the home due to the parent's incapacity.

.42 The inclusion of any person in the family budget unit under provisions of Section 44-213.41 shall not increase the maximum state participation base for the family.

.5 Exclusions

Persons specified in Sections 44-213.3 and 44-213.4 shall be excluded from the family budget unit under the following circumstances:

.51 Exclude a child who is age 16 through age 20 who

a. is not disabled, and

b. is not regularly attending school or a training program (see Section 41-103), and

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44-213 THE FAMILY BUDGET UNIT (Continued)

44-213

AFDC

c. is not employed, or if employed is not contributing to the family or saving a portion of earnings under an approved plan.

.52 Exclude a child, and the child's parent, when the child's eligibility depends on the action of the parent, and the parent refuses to cooperate in determining eligibility or with law enforcement officials (for limitations, see Section 42-519).

.53 Exclude a person referred to WIN who has refused to apply for or accept a bona fide offer of employment after the 60-day counseling period.

.54 Exclude a person who receives OAS, AB, APSB or ATD.

.55 Exclude a person, other than a parent, whose personal property when combined with that of persons in the family budget unit exceeds \$600.

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44-133 TREATMENT OF INCOME - AFDC (Continued)

44-133

AFDC .5 Income From Contributions By Stepfather

- .51 When the stepfather is included in the family budget unit (See Sections 44-213.3 and 44-213.4), his net nonexempt income is net income to the family budget unit.
- .52 When the stepfather is excluded from the family budget unit but his wife requests that her needs, or the needs of any of his children, be taken into consideration in computing the amount of the aid payment for her eligible children, determine his ability to support the members of the stepfather unit on the basis of the AFDC standard of assistance. Allow the deduction from earnings for work expenses in accordance with Section 44-113.23 but do not allow the earned income exemption.
- .521 If his income meets their combined need, exclude his wife and his children from the AFDC family budget unit. His actual contribution in cash or in kind is net income to the family budget unit.
- His wife's income is net income to the family budget unit to the extent of her own children's need. If her income equals or exceeds their need, exclude her children from the family budget unit.

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44-133 TREATMENT OF INCOME - AFDC (Continued)

44-133

AFDC

.522 If his income does not meet their need, include in the family budget unit his wife and his children for whom she requests aid. Net income to the family budget unit from the stepfather is the larger of the following amounts:

- a. His actual contribution in cash or in kind, or
- b. His ability to support his wife and his children who are in the family budget unit.

For purposes of this section, the stepfather's "ability to support" shall be the amount of his income remaining after deducting the following:

- His work expenses in accordance with Section 44-113.23.
- His needs, and those of the members of the stepfather unit who are excluded from the family budget unit, computed on the basis of the AFDC standard of assistance.
- Allowance of \$15 monthly for medical and dental needs of each person in the stepfather unit.
- Allowance for actual payments on court-ordered support for his dependents living elsewhere.
- Ten percent of his gross income.

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44-133 TREATMENT OF INCOME - AFDC (Continued)

44-133

AFDC .7 Income From Contribution By Unmarried Father

- .71 When the unmarried father is included in the family budget unit (See Section 44-213.413), his net nonexempt income is net income to the family budget unit.
- .72 When the unmarried father is excluded from the family budget unit but the unmarried mother requests that the needs of any of his children be taken into consideration in computing the amount of the aid payment for her eligible children (See Section 44-213.411), determine his ability to support himself and his children living in the home on the basis of the AFDC standard of assistance. Allow the deduction from earnings for work expenses in accordance with Section 44-133.23 but do not allow the earned income exemption.
- .721 If his income meets their combined need, exclude his children from the AFDC family budget unit. His actual contribution in cash or in kind is net income to the family budget unit.

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44-133 TREATMENT OF INCOME - AFDC (Continued)

44-133

AFDC

.722 If his income does not meet their need, include in the family budget unit his children for whom the unmarried mother requests aid. Net income to the family budget unit from the unmarried father is the larger of the following amounts:

- a. His actual contribution in cash or in kind, or
- b. His ability to support his children who are in the family budget unit.

For purposes of this section, the unmarried father's "ability to support" shall be the amount of his income remaining after deducting the following:

- His work expenses in accordance with Section 44-113.23.
- His needs, and those of his children in the home who are excluded from the family budget unit, computed on the basis of the AFDC standard of assistance.
- Allowance of \$15 monthly for medical and dental needs of the unmarried father and each of his children who are excluded from the family budget unit.
- Allowance for actual payments on court-ordered support for his dependents living elsewhere.
- Ten percent of his gross income.

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DEC 21 1970

Office of Administrative Procedure

Copy below is hereby certified to be a true
and correct copy of regulations adopted, or
amended, or an order of repeal by:

State Department of Social Welfare
(Agency)

Dated: December 18, 1970

By: *R. M. [Signature]*

Director
(Title)

FILED

in the office of the Secretary of State
of the State of California

DEC 21 1970

At 4:15 o'clock P.M.

[Signature]
Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

FINDING OF EMERGENCY

The amendments to the following regulations are emergency measures necessary for the immediate preservation of the public health, safety and general welfare within the meaning of the provisions of Government Code Section 11421(b) to be effective in accordance with Government Code Section 11422(c):

Operations Policies and Procedures Manual Sections

10-305.6
23-403
30-153
30-164
31-204

Manual of Eligibility and Assistance Standards Section

44-113

The following facts constitute the emergency:

1. Item 282 of the Budget Act of 1970 provides a closed-end appropriation for the payment of Work Incentive Program (WIN) training-connected expenses for public assistance recipients enrolled in WIN for Fiscal Year 1970/71.

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2. At the present rate of payments, the funds appropriated in Item 282 to meet training-connected expenses will be exhausted prior to the end of Fiscal Year 1970/71.
3. Control of expenditures represented by these payments must therefore be immediately increased in order to prevent this exhaustion of available funds.
4. The exhaustion of state funds with which to pay these expenses will result in the discontinuance of payments for WIN training-connected expenses to public assistance recipients enrolled in WIN and the ultimate termination of the WIN program itself.
5. The amendments to the regulations set forth above revise the present procedures for administering WIN training-connected expenses so as to equitably apportion the funds for payment of these expenses among the recipients.
6. Discontinuance of payments for WIN training-connected expenses and termination of the WIN program will constitute a failure to conform to the requirements of Social Security Act Section 402(a). Failure to comply with federal law may result in the loss to the State of California of millions of dollars in federal funds.
7. The harm caused to public assistance recipients by the discontinuance of training expense payments resulting in the termination of the WIN program coupled with the loss of federal funds would necessarily be adverse to the public health, safety and general welfare of the State of California.

The amendments to the regulations set forth above must, therefore, be adopted effective January 1, 1971.

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10-305 ALLOWABLE SERVICE-CONNECTED EXPENSES FOR FAMILIES (Cont.)

10-305

.6 Overpayment of Service-Connected Expenses From Administrative Funds

.61 An overpayment of service-connected expenses occurs where the amount allowed for service-connected expenses exceeds the actual expenses incurred. Exception: If, in the month in which assistance is discontinued, the amount allowed for service-connected expenses exceeds the actual expenses incurred, no recovery, other than from a current cash adjustment shall be permitted.

.62 Where overpayment occurs and is not caused by administrative error (see Section 44-335.1), one or more of the following methods shall be used to recover the overpayment:

.621 A request for repayment from the allowance for service-connected expenses where the recipient still has these funds.

.622 A request for repayment from liquid assets available to the recipient. (See Section 44-333.16 for definition of liquid assets.)

.623 A reduction in the amount to be advanced from administrative funds for service-connected expenses in the first and/or the second month following the overpayment in lieu of repayment from the recipients liquid assets.

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10-305 ALLOWABLE SERVICE-CONNECTED EXPENSES FOR FAMILIES (Cont.) 10-305

.63 Overpayment of service-connected expenses shall not be recovered through a reduction or discontinuance of the public assistance grant.

.64 Where overpayment of service-connected expenses persists, the county may use controlled payments or payment in arrears as a means of resolving the problem consistent with Chapter 30-220.

23-403 REQUIRED FORMS FOR WHICH SUBSTITUTE MAY BE USED (Cont.) 23-403

ABCD 238* Statement of Work and Training Expenses

* Use of substitute requires prior State Department of Social Welfare approval.

30-153 COSTS OF SUPPORTIVE SERVICES RELATED TO OBTAINING AND 30-153
RETAINING EMPLOYMENT OR REHABILITATION LEADING TO
EMPLOYMENT (Cont.)

.211 Purchase of a vehicle for use in WIN training after enrollment in such training shall be subject to prior county approval.
The authorized purchase price shall not exceed reasonable retail market value. When there is a cost to the recipient in obtaining prior approval, such cost shall be met from administrative funds.

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30-153 COSTS OF SUPPORTIVE SERVICES RELATED TO OBTAINING AND
RETAINING EMPLOYMENT OR REHABILITATION LEADING TO
EMPLOYMENT. (Cont.)

30-153

.212 County approval is required prior to the repair of a vehicle when such repair exceeds \$50. When there is a cost to the recipient in obtaining prior approval such cost shall be met from administrative funds. Prior approval shall take into consideration the practicality of repair in relation to the value of the vehicle and the cost of its replacement.

.213 Notwithstanding, Section 44-114.222 "other essential transportation costs" shall be allowed only as actually needed up to a maximum of \$25 per month, proratable on a monthly basis to enable the actual cost to be met.

.3 The service-connected expenses listed in Section 30-153.2 above shall be met from administrative funds except where a recipient in a WIN training program has concurrent earnings from employment.

.31 Where a recipient in a WIN training program has concurrent earnings from employment, the nonexempt earnings of the recipient shall be used to the extent possible to meet both the expenses of employment and the expenses of training, with first priority being given to meeting the expenses of employment. (See Section 44-113.243)

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30-153 COSTS OF SUPPORTIVE SERVICES RELATED TO OBTAINING AND
RETAINING EMPLOYMENT OR REHABILITATION LEADING TO
EMPLOYMENT. (Cont.)

30-153

- .32 Where the allowable expenses of obtaining the earnings exceed nonexempt earnings from an approved plan of employment, allowance for the unmet allowable expenses shall be met from administrative funds as service-connected expenses.
- .33 Where the allowable expenses of obtaining the earnings are less than the nonexempt earnings and the WIN service-connected expenses are greater than the remaining net income, the balance of such expenses shall be met from WIN administrative funds as service-connected expenses.
- .34 The method described above in .31 shall be utilized to meet the WIN service-connected expenses of recipients with concurrent earnings from employment only where the total amount of money which would have been available to the recipient from the assistance payment and administrative funds is not decreased by the application of this method.

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30-153 COSTS OF SUPPORTIVE SERVICES RELATED TO OBTAINING AND
RETAINING EMPLOYMENT OR REHABILITATION LEADING TO
EMPLOYMENT. (Cont.)

30-153

- .4 Service-connected expenses for WIN trainees shall be paid on the basis of a monthly claim submitted by the recipient to the county welfare department. The county shall assure the provision of sufficient funds for service-connected expenses to enable the trainee to begin and remain in the training program. The payment shall be adjusted to meet the actual expenses incurred upon receipt of an expense claim.
- .5 The county welfare department shall, in conjunction with staff of the WIN Section of the Department of Human Resources Development, establish procedures for the control of administrative expenditures for WIN service-connected expenses, including strict adherence to required WIN referral procedure (See Section 30-164.1) and the establishment of priorities in the selection of enrollees. Reimbursement of such administrative expenditures shall be subject to prior state authorization on an annual basis.

30-164 WIN REFERRAL PROCEDURE (Cont.)

30-164

- .6 There shall be continuous coordination, cooperation and planning between the Social Services system and the WIN Section of the Department of Human Resources Development during the entire WIN process. Such planning shall include the establishment of procedures for the control of administrative expenditures for WIN service-connected expenses, including strict adherence to required WIN referral procedure (See Section 30-164.1 above) and the establishment of priorities in the selection of enrollees.

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Effective 1/1/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

31-204 RESPONSIBILITIES OF THE SOCIAL SERVICES SYSTEM (Cont.)

31-204

.4 Assure that expenses of participation in the educational and training program are met, including but not limited to the provision of a standard allowance in accord with Section 30-153.26, child care costs, and reasonable costs of tuition, books, tools, and other supplies required by the program. Such expenses, if not provided by other agencies, shall be met from administrative funds except where a recipient in an ETS training program has concurrent earnings from employment.

.41 Where a recipient in an ETS training program has concurrent earnings from employment, the nonexempt earnings of the recipient shall be used to the extent possible to meet both the expenses of employment and the expenses of training, with first priority being given to meeting the expenses of employment. (See Sections 44-113.211 and 44-113.243)

.42 Where the allowable expenses of obtaining the earnings exceed nonexempt earnings from an approved plan of employment, allowance for the unmet allowable expenses shall be met from administrative funds as service-connected expenses.

.43 Where the allowable expenses of obtaining the earnings are less than the nonexempt earnings and the ETS service-connected expenses are greater than the remaining net income, the balance of such expenses shall be met from administrative funds as service-connected expenses.

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Effective 1/1/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

31-204 RESPONSIBILITIES OF THE SOCIAL SERVICES SYSTEM (Cont.)

31-204

.44 The method described above in .41 shall be utilized to meet the ETS service-connected expenses of recipients with concurrent earnings from employment only where the total amount of money which would have been available to the recipient from the assistance payment and administrative funds is not decreased by the application of this method.

.5 To allow for transportation expenses for participation in ETS subject to the conditions and limitations of Section 44-114.

.51 Purchase of a vehicle for use in ETS training after enrollment in such training shall be subject to prior county approval. The authorized purchase price shall not exceed reasonable retail market value. When there is a cost to the recipient in obtaining prior approval, such cost shall be met from administrative funds.

.52 County approval is required prior to the repair of a vehicle when such repair exceeds \$50. When there is a cost to the recipient in obtaining prior approval, such cost shall be met from administrative funds. Prior approval shall take into consideration the practicality of repair in relation to the value of the vehicle and the cost of its replacement.

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Effective 1/1/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

31-204 RESPONSIBILITIES OF THE SOCIAL SERVICES SYSTEM (Cont.)

31-204

- .53 Notwithstanding, Section 44-114.222 "other essential transportation costs" shall be allowed only as actually needed up to a maximum of \$25 per month, proratable on a monthly basis to enable the actual cost to be met.
- .7 Pay service-connected expenses on the basis of a monthly claim submitted by the recipient to the county welfare department. The county shall assure the provision of sufficient funds for service-connected expenses to enable the trainee to begin and remain in the training program. The payment shall be adjusted to meet the actual expenses incurred upon receipt of an expense claim.

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Effective 1/1/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-113 NET INCOME (Cont.)

44-113

AB
ATD
OAS

.211 Received Monthly or on Basis other than Recurring Lump Sum

a. As an Employee (Wages, Salary or Commissions) (Continued)

- (3) Deduct all personal and nonpersonal work expenses from amount determined in Item 2; i.e., cost of tools, materials, special uniforms or other clothing necessary for the job, business expenses or transportation to call on customers, income withholding taxes, social security taxes, cost of meals purchased away from home, transportation to and from the job, laundry and cleaning service necessary for the retention of employment, union dues, etc. Include the ETS training-related expenses of the recipient when the standard allowance and/or other costs are intermingled with the expenses of employment, except when the inclusion of such expenses would decrease the total amount of money available to the recipient from the assistance grant and administrative funds. (See Section 30-153.3)

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Effective 1/1/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-113 NET INCOME (Cont.)

44-113

AFDC.243 WIN or ETS Training-Related Expenses

Deduction shall be made for WIN or ETS training-related expenses of the recipient where the standard allowance (see .232 above) and/or other costs (see .233 above) are intermingled with the expenses of employment, except where the inclusion of such expenses would decrease the total amount of money available to the recipient from the assistance grant and administrative funds. (See Section 30-153.3)

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Effective 1/1/71

DEPARTMENT OF SOCIAL WELFARE

744 P STREET
SACRAMENTO 95814

RECEIVED FOR FILING

NOV 24 1970

Office of Administrative Procedure

FILED

In the office of the Secretary of State
of the State of California

NOV 25 1970

At 4:06 o'clock P. M.

Secretary of State

ORDER

- . In the Matter of a Demonstration
to Provide Services to Former and
Potential Recipients in Model Cities
Demonstration Areas

I

With the approval of the United States Department of Health, Education, and Welfare for a waiver of statewideness already received under the provisions of Section 1115 of the Social Security Act, the State Department of Social Welfare proposes to conduct an experimental project, in and jointly with Los Angeles County, to demonstrate that the concentration and coordination of social and rehabilitation services and resources in a defined area will meet the expressed needs of the residents and will improve their ability to function independently. The objective of the demonstration is to expand the services and improve the total well-being of persons residing within the boundaries of Model Neighborhoods designated in Los Angeles County Model Cities program and Los Angeles City Model Cities program because of the high incidence of poverty and identified service needs in these neighborhoods.

II

In order to conduct and administer the project, it is necessary to waive the enforcement of certain regulations governing the public assistance program for the period to begin on December 1, 1970, and end on or before October 31, 1973.

III

For the purpose of this project and pursuant to Section 18204 of the Welfare and Institutions Code, I hereby waive the operation of the following regulations effective December 1, 1970, but only in the manner and to the degree required by the nature of the project:

CHAPTER 10-070 PERSONS TO BE SERVED

10-070	Regulations are modified to test the benefits of providing
thru'	specific defined services to persons residing within the
10-073	boundaries of Los Angeles County and Los Angeles City Model
	Neighborhoods, in accordance with project design.

There will be no additional State funds involved as a result of this project.

Robert Martin
Director

DATE: November 23, 1970

Effective December 1, 1970

LEGAL NOTICE

PROPOSED DEMONSTRATION PROJECT TO PROVIDE SERVICES TO FORMER AND POTENTIAL RECIPIENTS IN MODEL CITIES DEMONSTRATION AREAS

With the approval of the United States Department of Health, Education, and Welfare for a waiver of statewideness already received under the provisions of Section 1115 of the Social Security Act, the State Department of Social Welfare proposes to conduct an experimental project, in and jointly with Los Angeles County, to demonstrate that the concentration and coordination of social and rehabilitation services and resources in a defined area will meet the expressed needs of the residents and will improve their ability to function independently. The objective of the demonstration is to expand the services and improve the total well-being of persons residing within the boundaries of Model Neighborhoods designated in Los Angeles County Model Cities program and Los Angeles City Model Cities program because of the high incidence of poverty and identified service needs in these neighborhoods.

In order to conduct and administer the project, it is necessary to waive the enforcement of certain regulations governing the public assistance program for the period to begin on December 1, 1970, and end on or before October 31, 1973.

For the purpose of this project and pursuant to Section 18204 of the Welfare and Institutions Code, I hereby waive the operation of the following regulations effective December 1, 1970, but only in the manner and to the degree required by the nature of the project:

Chapter 10-070 Persons to be Served

10-070 through 10-073

There will be no additional State funds involved as a result of this project.



Robert Martin, Director
State Department of Social Welfare

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

RECEIVED FOR FILING

DEC 30 1970

Office of Administrative Procedure

ENDORSED

APPROVED FOR FILING
(GOV. CODE 11480.8)

DEC 30 1970

Office of Administrative Procedure

Copy below is hereby certified to be a true
and correct copy of regulations adopted, or
amended, or an order of repeal by:

State Department of Social Welfare

(Agency)

Dated: December 28, 1970By: *[Signature]*Director

(Title)

FILED

In the office of the Secretary of State
of the State of California

DEC 30 1970

At 11:00 o'clock a M.*[Signature]*
Secretary of State

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DO NOT WRITE IN THIS SPACE

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

FINDING OF EMERGENCY

The amendments to the following regulations are emergency measures necessary for the immediate preservation of the public health, safety and general welfare within the meaning of the provisions of Government Code Section 11421(b) to be effective in accordance with Government Code Section 11422(c):

Sections 40-127
41-203
41-207

The following facts constitute the emergency:

1. Provisions for determining the residence of aliens as the basis for eligibility for public social services in current regulations do not sharply describe criteria to be used in determining the legal capacity of an alien to form the intent to reside in the state, nor do they differentiate between aliens in the United States lawfully and those subject to deportation.
2. The amendments to the regulations set forth above establish such criteria by limiting the status to those aliens living in California who exhibit the requisite intent to remain indefinitely and who are legally present in the United States.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

3. Unless the amendments to the regulations set forth above are adopted as emergency measures, eligibility for public assistance will be determined without specific provisions relative to the ability of aliens to establish state residence. As a consequence, limited state funds will be expended for public social services to persons who would otherwise be ineligible to receive them. In the instances of programs based on closed-end appropriation, the effect is to curtail or to deny such benefits to applicants or recipients who would otherwise be lawfully entitled thereto.
4. The expenditure of state funds for aid payments to recipients not legally capable of becoming residents of the state at the expense of other recipients entitled thereto would be necessarily adverse to the public health, safety and general welfare of the State of California.

It is therefore, and hereby, found that the amendments to the regulations set forth above must be adopted as emergency measures effective January 1, 1971.

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**CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

40-127 THE SIMPLIFIED ELIGIBILITY METHOD

40-127

AB (For definition and description, see Section 10-505.1)

ATD .1 Applicant's Statement of Facts - General

OAS

MN

The applicant or recipient's Statement of Facts (Form ABDM 201)
shall be accepted as a basis for decision regarding his
eligibility, amount of grant or share of cost except:

- .11 In relation to blindness and disability (see Sections
42-100 and 42-200),
- .12 In relation to residence of an alien (see Section 41-207),
or
- .13 When the ABDM 201 is incomplete, unclear or inconsistent
(see Section 40-157) or when other circumstances indicate
to a prudent person that further inquiry should be made.

41-203 RESIDENCE - GENERAL

41-203

AB

ATD

OAS

AFDC

MN

- .1 General Definition of "Resident," "Reside," "Residence"

The words "residence," "reside," "resident" as used in the W&IC carry the implication of a place; thus a person is usually said "to have residence," "reside," or "be a resident" at the place where he is living if he has no intention of presently leaving and if he is legally entitled to remain

there indefinitely. Residence, once established, continues until the recipient or the person who governs his residence leaves the state and establishes residence elsewhere.

Residence requirements for purposes other than aid may differ (e.g., for voting, for certain court actions, etc.). A person may have residence in California for purposes of aid, as well as residence in another state for other purposes.

- .2 Residence Established by Physical Presence

A person (including a child) establishes residence in the state by physical presence for purposes not temporary in nature.

A person who is not legally entitled to remain permanently in the United
States is not a resident of the state, and therefore is not eligible to
receive aid.

Effective 1/1/71

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

41-207 EVIDENCE OF RESIDENCE INTENTION

41-207

AB
ATD
OAS
AFDC
MN.1 Applicant or Recipient Physically Present in State.11 General:

- The written statement of the applicant or recipient is acceptable to establish his intention and action on establishing residence unless the statement is inconsistent with other statements on the Form 201 or with the conduct of the person or with other information known to the county.

.12 Applicant or Recipient is an Alien

The applicant or recipient who is not a citizen of the United States must also establish that he is in the country legally and not for a temporary purpose.

This may be established only by presentation of:

.121 a current alien registration receipt (green card) or

.122 other written evidence from the Immigration and Naturalization Service indicating that the applicant or recipient is legally entitled to remain in the country indefinitely.

.13 Applicant or Recipient is a Cuban Refugee

A Cuban Refugee may establish he is in the country legally and not for a temporary purpose by evidence that he is registered at the Cuban Refugee Center in Miami (C.F. registration card).

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Effective 1/1/71

FACE SHEET
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WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

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JAN 6 - 1971

Office of Administrative Procedure

ENDORSED

APPROVED FOR FILING
(GOV. CODE (1969.0))

JAN 6 - 1971

Office of Administrative Procedure

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

State Department of Social Welfare

Dated: December 31, 1970 (Agency)

By: *[Signature]*

Director

(Title)

FILED

In the office of the Secretary of State
of the State of California

JAN - 6 1971

At 10:36 o'clock P.M.

[Signature]
ASSIST. Secretary of State

DO NOT WRITE IN THIS SPACE

DO NOT WRITE IN THIS SPACE

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

FINDING OF EMERGENCY

The Director of the Department of Social Welfare finds that an emergency exists and that the adoption of the attached regulations are necessary for the immediate preservation of the public welfare and that notice and proceedings are impracticable. The facts supporting such findings are as follows:

Section 1902 (a) (26) of the Social Security Act (42 USCA 1396a (a) (26)) provides that a state plan for medical assistance must, effective July 1, 1969, provide for a regular program of medical review which shall include a medical evaluation of each patient's need for skilled nursing home care and the feasibility of meeting the individual patient's health care needs through alternative institutional and noninstitutional services.

Pursuant to 1902 (a) (26) the State of California has established Medical-Social Review Teams to evaluate each patient's need for skilled nursing home care and, if necessary, recommend placement in licensed intermediate care facilities.

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CONTINUATION SHEET
F FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

There are approximately 60,000 Medi-Cal beneficiaries in skilled nursing homes throughout the State of California. To date 4,153 of these patients have been evaluated by Medical-Social Review and approximately 1,125 (27 percent of total reviewed) have been identified as being suited for placement in an intermediate care facility.

As there are at present no program regulations or rates of reimbursement established, potential operators of intermediate care facilities have been reluctant to enter the field. Consequently there are no licensed intermediate care facilities to which to refer patients pursuant to 1902 (a) (26).

Comprehensive Health Planning Agencies have approved requests for establishing intermediate care facilities and the State Department of Public Health is prepared to begin the licensing of such facilities in December 1970. However, until such time as the attached regulations are adopted there will be no provision for the reimbursement of facilities furnishing intermediate care.

The Federal Government's General Accounting Office audit of the Medi-Cal program concluded that there are a substantial number of individuals in skilled nursing homes who can function adequately at a lower level of care.

The State of California is paying for a level of care that is not medically required in a substantial number of cases. Intermediate care is an alternative that will provide a needed level of care with a more efficient utilization of medical manpower and fiscal resources. Therefore, the immediate adoption of the attached regulations is essential to achieve and fulfill their goals.

The listed regulations are therefore adopted as emergency regulations to become effective immediately upon filing with the Secretary of State as provided in Sections 11422 (b) and 11422 (c) of the Government Code.

Title 22, California Administrative Code:

Section 40214

Section 42212

DO NOT WRITE IN THIS SPACE

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

These regulations do not contain any building standards.

California Administrative Code

Title 22

Chapter 6

Adopt Section 40214 Intermediate Care

Referral to the State Department of Public Health shall be made when an applicant or licensee wants to apply for an Intermediate Care license.

Unless the total facility is converted to Intermediate Care, the part not so affected, shall remain under the licensing regulations of this chapter. If any part of a facility is subject to licensing under this chapter, no bedroom shall be constructed for more than two persons.

California Administrative Code

Title 22

Chapter 7

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DO NOT WRITE IN THIS SPACE

Effective 1/6/71

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Pursuant to 1902 (a) (26) the State of California has established Medical-Social Review Teams to evaluate each patient's need for skilled nursing home care and, if necessary, recommend placement in licensed intermediate care facilities.

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CONTINUATION SHEET
FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

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As there are at present no program regulations or rates of reimbursement established, potential operators of intermediate care facilities have been reluctant to enter the field. Consequently there are no licensed intermediate care facilities to which to refer patients pursuant to 1902 (a) (26).

Comprehensive Health Planning Agencies have approved requests for establishing intermediate care facilities and the State Department of Public Health is prepared to begin the licensing of such facilities in December 1970. However, until such time as the attached regulations are adopted there will be no provision for the reimbursement of facilities furnishing intermediate care.

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The State of California is paying for a level of care that is not medically required in a substantial number of cases. Intermediate care is an alternative that will provide a needed level of care with a more efficient utilization of medical manpower and fiscal resources. Therefore, the immediate adoption of the attached regulations is essential to achieve and fulfill their goals.

The listed regulations are therefore adopted as emergency regulations to become effective immediately upon filing with the Secretary of State as provided in Sections 11422 (b) and 11422 (c) of the Government Code.

Amend Section

Repeal Section

10-036	30-253.1
10-051.51	30-253.2
30-251	30-253.3
30-253	30-253.4
30-255.1	30-255.12
30-255.10	44-321
30-255.11	
30-260	
30-265	
40-125.25	
44-209	
44-211	
44-301	
44-303.34	
44-305.11	
44-305.21	
44-311.12	
44-315.22	
44-315.23	
44-315.3	
44-315.4	

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

10-036 CONTROL METHOD FOR OUT-OF-HOME CARE - ADULTS

10-036

County welfare departments are responsible for arranging or assisting in arranging for the type of out-of-home care required by public assistance recipients. Every applicant and recipient in out-of-home care must be classified according to the level of care he requires and receives. The requirements vary with the type of facility. The annual service assessment for recipients in nonmedical board and care facilities is the responsibility of the county welfare department or the Community Services Division, State Department of Social Welfare. Approval for admission and continuing care in intermediate care facilities and nursing homes, private psychiatric hospitals and nursing wards of state hospitals are the responsibilities of the state medical social review team, Department of Health Care Services (see Chapters 30-250 and 44-209).

.1 Physician's Recommendation for Placement

.11 Admission to nonmedical board and care facility does not require a physician's recommendation.

.12 Admission to intermediate care, nursing homes and hospitals must be prescribed by a physician.

.2 Nonmedical board and care has no review by a state medical social review team, Department of Health Care Services, but requires an annual social service assessment by the county social services system.

Effective 1/6/71

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

10-036 CONTROL METHOD FOR OUT-OF-HOME CARE - ADULTS (Continued) 10-036

- .3 Level of care approval is required for intermediate care and nursing home care by a state medical social review team, Department of Health Care Services.
- .4 Payment for out-of-home care is standardized according to type of facility and the care required by the recipient. (See 44-315)
- .41 Nonmedical board and care, Group I and Group II - payments are made to the recipient.
- .42 Intermediate Care, nursing home care, and hospital care-payments are made to the vendor.
- .5 State Medical Social Review Team of the Department of Health Care Services is Responsible to:
- .51 Act upon request from the patient's physician or the county welfare department to determine the need for a higher level of care. When intermediate or nursing home care is certified by the attending physician as requiring immediate admission, the county may proceed with placement and notify the state medical social review team, Department of Health Care Services of the action taken. The team will review such admissions for appropriateness of placement within 30 days.
- .52 Make referrals to county welfare department for social services needed by recipients in intermediate care and nursing homes.

DO NOT WRITE IN THIS SPACE

Effective 1/6/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

10-036 CONTROL METHOD FOR OUT-OF-HOME CARE - ADULTS (Continued) 10-036

.53 Refer to the county welfare department request for action:

.531 To transfer recipient to a different level of care.

.532 To arrange for a recipient's discharge from out-of-home care and to assist with his return to the community.

.533 Furnish county welfare departments with copies of all social service assessments for recipients in nursing home care and intermediate care and of the semiannual check for recipients in intermediate care facilities.

10-051 REQUIRED SERVICE PROGRAMS - ALL COUNTIES (Continued) 10-051

.5 Out-of-Home Services

.51 Adult applicants or recipients who cannot remain in their own homes or other independent setting shall be provided social services to assist as needed with placement, care, treatment, discharge, or transfer into and from a foster family setting or nonmedical board and care facility. Social services as needed and assistance with placement, discharge, or transfer into or from an intermediate care facility, nursing home and hospital shall also be provided.

DO NOT WRITE IN THIS SPACE

Effective 1/6/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

CHAPTER 30-250 OUT-OF-HOME SERVICES - ADULTS

30-251 OBJECTIVES

30-251

Adult applicants or recipients who cannot remain in their own homes or other independent setting shall be provided social services to assist as needed with placement, care, treatment, discharge, or transfer into and from a foster family setting or nonmedical board and care facility. Social services as needed and assistance with placement, discharge, or transfer into or from an intermediate care facility, nursing home and hospital shall also be provided.

30-253 INTRODUCTION AND PURPOSE (Continued)

30-253

Careful selection of out-of-home facilities which meet the needs of the individual help to prevent the damaging effects of misplacement and change. Social services may be required to help the individual make realistic decisions regarding the nature and degree of care and supervision he needs. Achieving the best plan may require close collaboration with other such as the attending physician. Services related to out-of-home care may need to continue after the selection of the appropriate facility to provide help to the individual in moving into the new living arrangement and achieving and maintaining a satisfactory adjustment in out-of-home care.

DO NOT WRITE IN THIS SPACE

Effective 1/6/71

**CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

30-253 INTRODUCTION AND PURPOSE (Continued)

30-253

A social service assessment is required as often as necessary, but at least annually for recipients living in out-of-home care. The assessment shall be developed and services provided according to the applicable items of Section 30-255. Also, when the service assessment is made, the appropriateness of the level of care shall be considered from the standpoint of the recipient's needs and care provided by the facility.

30-255 SERVICES IN OUT-OF-HOME CARE (Continued)

30-255

- .1 Information and referral services pertaining to out-of-home care facilities shall be made available upon request.

30-255 SERVICES IN OUT-OF-HOME CARE (Continued)

30-255

- .10 Consultation and planning shall occur with the appropriate staff of the out-of-home care facility in relation to the individual's progress and services needed.
- .11 Services will be provided to assist with the out-of-home care living arrangement transfers and to enable persons to return to their own homes or other independent living arrangements.

DO NOT WRITE IN THIS SPACE

Effective 1/6/71

**CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

30-260 COUNTY RESPONSIBILITY FOR APPROPRIATE LEVEL OF CARE

30-260

- .1 Social service and income maintenance systems of the county welfare department carry interrelated responsibilities with the Department of Health Care Services' state medical social review teams for persons in out-of-home care. (See Sections 44-209 and 10-036.) The social service system has responsibility for liaison with the state medical social review team, Department of Health Care Services.

To insure appropriate placements and the proper level of care, the admission, periodic, and annual medical social reviews shall be made by state medical social review teams, Department of Health Care Services, for recipients in intermediate care facilities, nursing homes, private psychiatric hospitals, and nursing wards of state hospitals. The services system of a welfare department or Community Services Division, State Department of Social Welfare, is responsible for the annual assessment in nonmedical board and care facilities.

The direct recruitment of work with others to supply residential care facilities in the proper number and of suitable quality is the responsibility of the county welfare department. The county welfare department is expected to cooperate with the state medical social review team, Department of Health Care Services, State Department of Public Health, and offices of Comprehensive Health Planning to assist in the development of intermediate care and nursing home facilities in the proper number and of suitable quality.

DO NOT WRITE IN THIS SPACE

Effective 1/6/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

30-260 COUNTY RESPONSIBILITY FOR APPROPRIATE
LEVEL OF CARE (Continued)

30-260

- .2 County social services shall be provided upon request, upon referral from the income maintenance system, and upon referral from the state medical social review team, Department of Health Care Services to:
- .21 Provide an initial social assessment to determine if it is feasible for the individual to remain in his own home with help or if out-of-home care is required.
- .22 Provide a periodic social assessment and the services the individual requires appropriate to his needs.
- .23 Facilitate prompt changes from one level of care to another when the type of care required by the individual changes.
- .24 Facilitate discharge from out-of-home care and assist with arrangements for living in own home or other independent living arrangement.
- .3 Reports of assessment or action taken shall be provided by the services system to:
- .31 Income Maintenance System
- .32 State Medical Social Review Team
- .321 Where the county recommendation is for intermediate care or a higher level of care.
- .322 Where such report has been requested by the state medical social review team, Department of Health Care Services.

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Effective 1/6/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

30-265 TYPES OF OUT-OF-HOME CARE FACILITIES

30-265

.1 Nonmedical Out-of-Home Care

Recipients who receive a public assistance grant based on the need for personal care and supervision may reside in the home of a relative, friend, family care home, residential care facility and other nonmedical board and care arrangement. The home or institution shall meet licensing requirements or where a license is not required the recipient shall be assisted in locating safe, healthful, and pleasant living arrangements. The person with whom the recipient lives shall provide opportunities to engage in religious, social, and recreational activities within the recipient's capacity. An admission agreement between the operator of a licensed facility and the recipient shall state the services to be received.

The classification of a recipient for Group I or Group II care shall be made by the services worker according to the particular type of care required and received by the recipient as follows:

.11 Group I

A person in this group needs a protective environment but only limited personal service. He may be able to go out by himself, take care of his own room, and assume responsibility for his own medications, or he may need and receive one or more of the following:

- .111 Assistance in caring for his room but can manage dressing and personal hygiene;

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(Pursuant to Government Code Section 11380.1)

30-265 TYPES OF OUT-OF-HOME CARE FACILITIES (Continued)

30-265

.112 Help with medications because of forgetfulness, poor eyesight, or shakiness;

.113 A special room approved by the fire inspector for nonambulatory occupancy.

A person receiving care in a family care home certified by the State Department of Social Welfare or a person receiving care from an adult child (or in AB and OAS from an adult child or parent) in the home of such child or parent is considered to be in Group I.

.12 Group II

A person in this group needs and receives two or more of the following services or a combination of two or more of the services listed in Group I, plus one or more of the following:

.121 Help with dressing and personal hygiene;

.122 Extra care because of incontinence;

.123 Modified diet and/or help with eating;

.124 Personal supervision in or away from the home because of general feebleness, tendency to wander, unsteadiness, mild mental confusion, mental retardation, etc.; or

.125 Extra care and special services because he is nonambulatory due to poor eyesight or use of mechanical walking aids and requires a room specially approved by the fire inspector for nonambulatory occupancy.

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(Pursuant to Government Code Section 11380.1)

30-265 TYPES OF OUT-OF-HOME CARE FACILITIES (Continued)

30-265

.13 Social service assessment by the county welfare department is required as often as indicated but at least annually for recipients in nonmedical care. A part of the assessment is classifying the recipient for Group I or Group II care.

.2 Intermediate Care Facility

Intermediate care is provided in a facility or a distinct part thereof authorized by the State of California. A recipient's need for intermediate care shall be prescribed by his attending physician. Admission to an intermediate care facility must have approval by the state medical social review team, Department of Health Care Services. If intermediate care represents a higher level of care for the individual, admission must be preceded by approval from the team. If intermediate care represents a lower level of care, review by the team will take place within 90 days after admission. If need for immediate admission is certified by the attending physician, the county may proceed with placement and notify the team of the action taken and request a level of care review. The team will review immediate admissions within 30 days. Continued care in such a facility is subject to periodic approval by a state medical social review team, Department of Health Care Services.

An intermediate care facility provides supportive, restorative, and preventive health services in conjunction with a socially oriented program to its residents. It operates 24-hour services, including board, room, personal care, and provides intermittent nursing care.

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(Pursuant to Government Code Section 11380.1)

30-265 TYPES OF OUT-OF-HOME CARE FACILITIES (Continued)

30-265

.21 All intermediate care facilities shall have written admission and discharge policies which will include the services to be provided. These policies shall be made available to residents upon admission and upon request. (Refer to State Department of Public Health regulations.)

.22 All intermediate care facilities shall adopt policies which govern the personal care, medical, dental, nursing, and related care. (Refer to State Department of Public Health regulations.)

.23 A social and recreational activity program shall be developed by the facility for each resident. (Refer to State Department of Public Health regulations.)

.24 The team shall review the appropriateness of placement on an ongoing basis but no less often than annually. Services needs shall be referred to the welfare department. A semiannual check to confirm the continued presence of the recipient in the facility and that he is receiving the care intended will be completed by the team and the welfare department notified.

.25 Social services shall be provided by the county welfare department.

.3 Nursing Home Care or Hospital Care

Nursing home care or hospital care is provided in a facility licensed or authorized by the State of California.

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(Pursuant to Government Code Section 11380.1)

30-265 TYPES OF OUT-OF-HOME CARE FACILITIES (Continued)

30-265

Care in a nursing home or hospital includes continuous skilled nursing care and medical supervision. This level of care is available to OAS, AB, and ATD recipients subject to the limitations and requirements set forth in Title 22, Division 3, The California Administrative Code.

.31 Social services shall be provided by the county welfare department as indicated.

.32 An annual social service assessment is required for cash grant recipients. This assessment requirement is met by the state team's social service review.

.33 The team must approve admission to nursing homes and shall review appropriateness of level of care at least annually.

.34 When nursing home or hospital care is certified by the attending physician and requires immediate admission, the county may proceed to assist with placement as necessary and promptly notify the team of the action taken and request a level of care determination.

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(Pursuant to Government Code Section 11380.1)

The following regulations are to be repealed effective 1/6/71:

30-253.1

30-253.2

30-253.3

30-253.4

30-255.12

44-321 PAYMENTS TO A PATIENT IN A HOSPITAL AND FOLLOWING DISCHARGE

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(Pursuant to Government Code Section 11380.1)

40-125 PROCESSING APPLICATIONS, REAPPLICATIONS, AND
RESTORATIONS (Continued)

40-125

AB
ATD
OAS
AFDC
MN

.25 Medical Facility - As used herein means a nursing home or hospital, including a facility licensed by the Department of Mental Hygiene for the care of the mentally ill.

(Section 40-189.23)

An intermediate care facility licensed or authorized by the state to provide supportive, restorative and preventive health services, including intermittent nursing care shall be treated in the same manner as a medical facility in determining county responsibility.

(See Sections 44-209.32 and 40-189.23.)

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(Pursuant to Government Code Section 11380.1)

44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE 44-209
AND INTERMEDIATE CARE FACILITIES

AB
ATD
OAS

.1 Purpose

The primary purpose of these regulations is to (a) define the various levels of out-of-home care which may be required by an OAS, AB or ATD recipient and (b) establish criteria and need standards, for those levels of care which fall specifically within the scope of the OAS, AB and ATD programs, which will enable the recipient to obtain the level of care most appropriate to his needs.

Group I and Group II nonmedical board and care and health-related intermediate care are the three levels of out-of-home care which fall specifically within the scope of the OAS, AB and ATD programs, and these regulations are directed primarily to these three levels of care.

Care in hospitals and nursing homes represent additional levels of out-of-home care available to OAS, AB and ATD recipients who require inpatient medical care. However, criteria and need standards for care in either a hospital or nursing home fall within the scope of the Medi-Cal program and are covered in Medi-Cal regulations. (See Title 22, Division 3, California Administrative Code)

The regulations set forth herein are intended to:

- a. Integrate, insofar as is possible, the system for providing nonmedical board and care or intermediate care with the system for providing medical out-of-home care;

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(Pursuant to Government Code Section 11380.1)

44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE
AND INTERMEDIATE CARE FACILITIES (Continued)

44-209

AB
ATD
OAS

- b. Assist the individual to obtain the level of care most appropriate to his needs whether this be nonmedical board and care, intermediate or medical care, and
- c. Facilitate prompt changes from one level of care to another when the type of care required by the individual changes.

.2 Definitions and General Information

.21 Out-of-Home Care

"Out-of-home care" as used herein is a protective living arrangement outside the individual's own home where, as a minimum, he receives board, room, personal care and designated supplementary services related to his individual needs. (See .3 below)

"Out-of-home care" within the scope of these regulations includes, but is not necessarily limited to, care provided in:

- a. Facilities licensed to provide residential care,
- b. State certified family care homes,
- c. Homes of friends, relatives or other facilities which provide personal care and supervision but are not licensed because, under state law, they are not subject to any licensing requirements, and
- d. Facilities licensed or authorized to provide intermediate care.

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(Pursuant to Government Code Section 11380.1)

44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE
AND INTERMEDIATE CARE FACILITIES (Continued)

44-209

AB
ATD
OAS.22 Nonmedical Board and Care Facility

A "nonmedical board and care facility," as used herein, is interpreted broadly to include homes or facilities described in Section .21, subsections a, b, and c above.

.23 Intermediate Care Facility

An "intermediate care facility," as used herein, is a facility, or a distinct part of a facility licensed or authorized by the state to provide intermediate care.

.24 Vendor Payment

A "vendor payment," as used herein, is an OAS, AB, or ATD payment, made on behalf of an eligible recipient, for care in an intermediate care facility. Eligibility to such payments and the recipient's liability, if any, to meet a portion of the cost of his care in the intermediate care facility, are determined by the county in accord with these and other regulations covering the OAS, AB, and ATD programs. On the basis of such determination and pursuant to agreement between the State Department of Social Welfare and the State Department of Health Care Services, vendor payments to the intermediate care facility are made by the Department of Health Care Services in accord with regulations adopted by that department.

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(Pursuant to Government Code Section 11380.1)

44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE 44-209
AND INTERMEDIATE CARE FACILITIES (Continued)AB
ATD
OAS.25 Liability

"Liability," as used herein, means the portion of the monthly charge for care in the intermediate care facility, for which the recipient is responsible.

.3 Classification of Recipients in Out-of-Home Care

Every applicant or recipient in an out-of-home care living arrangement must be classified according to the level of care he requires and receives.

Out-of-home care classifications are as follows:

.31 Nonmedical Board and Care

Nonmedical board and care includes primarily personal care and supervision. The care required may range from minimum or moderate to extensive. Thus, this classification is divided into two levels, i.e., Group I for those individuals needing only minimum to moderate care and Group II for those needing extensive care.

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(Pursuant to Government Code Section 11380.1)

44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE
AND INTERMEDIATE CARE FACILITIES (Continued)

44-209

AB
ATD
OAS

Criteria to be observed in classifying a recipient for Group I or
Group II care are set forth in Section 30-265.1.

.311 Group I Care

A person receiving out-of-home care is classified for Group I
care, and aid payments are based on the Group I care standard
(see .5 below) until:

- a. It is determined that the conditions and requirements for
Group II care or for a higher level of care are met (see
Section .32 below), or
- b. It is determined that a recipient in a nonmedical board
and care facility is not receiving the minimum services
appropriate to his needs, as provided in Section 30-265.1.
In such case, aid payments are based on the board and room
standard as provided in Section 44-208.

In addition, a person receiving out-of-home care is always
classified for Group I care if he is receiving care in a
state certified family care home, or is receiving care
from an adult child (in OAS and AB, from an adult child or
parent), in the home of such child or parent. (See
Section 44-207 for need determination of the ATD recipient
living in the home of his parents.)

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(Pursuant to Government Code Section 11380.1)

44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE
AND INTERMEDIATE CARE FACILITIES (Continued)

44-209

AB
ATD
OAS.312 Group II Care

A person is classified for Group II care when his need for and receipt of this level of care have been determined by the services system. (See Section .42 below.)

.32 Intermediate Care

Intermediate care, as distinguished from nonmedical board and care, is health related and, in addition to personal and social care, includes supportive, restorative and preventive health services, and intermittent skilled nursing care.

A person is classified for intermediate care if:

- a. Need for intermediate care is prescribed by his attending physician, and
- b. He is in an intermediate care facility, and
- c. His need for this level of care has been determined by the State Medical-Social Review Team of the State Department of Health Care Services. (See Section 30-265.24)

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(Pursuant to Government Code Section 11380.1)

44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE 44-209
AND INTERMEDIATE CARE FACILITIES (Continued)AB
ATD
OAS

A person may be admitted to an intermediate care facility and classified for intermediate care, prior to the determination of need for this level of care by the Medical-Social Review Team when:

.321 The individual's attending physician certifies that he needs such care and that he requires immediate admission to an intermediate care facility. Such admissions are to be reported promptly to the State Medical-Social Review Team. The team will review the appropriateness of placement and report to the county within 30 days.

or

.322 The individual moves from a higher to a lower level of care, i.e., from nursing home to intermediate care. In such case the State Medical-Social Review Team will review the changed level of care as soon as possible after the individual's admission to the intermediate care facility, and within 90 days, will provide the county with its determination of the appropriateness of the new level of care.

Services provided for recipients in intermediate care facilities are set forth in Section 30-265.2.

.33 Inpatient Care in a Nursing Home or Hospital

Care in a nursing home or hospital includes continuous skilled nursing care and medical supervision. This level of care is available to OAS, AB and ATD recipients subject to the limitations and requirements set forth in Title 22 of the Administrative Code.

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(Pursuant to Government Code Section 11380.1)

44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE
AND INTERMEDIATE CARE FACILITIES (Continued)

44-209

AB .4 Responsibilities and Interrelationships of State and County Staff
ATD
OAS

A close working relationship between the county and the State Medical-Social Review Team is essential to assure that the individual is classified for and receiving the level of care he needs, and that the aid payment to him or on his behalf is in the correct amount. (See Section 30-260)

.41 State Medical-Social Review Team Responsibilities

The State Medical-Social Review Team has primary responsibility for social assessments and for determination of the appropriate level of care for recipients in intermediate care facilities, nursing homes, nursing wards of state hospitals, and private psychiatric hospitals. Specific responsibilities of the team include:

- a. Review of recipient admissions to intermediate care facilities, nursing homes, nursing wards in state hospitals and private psychiatric hospitals and determination of the appropriateness of placement in such facilities.
- b. Completion of a social assessment and redetermination of appropriateness of placement of recipients in such facilities when requested by the county, when otherwise indicated and, in any event, at least annually.

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(Pursuant to Government Code Section 11380.1)

44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE 44-209
AND INTERMEDIATE CARE FACILITIES (Continued)AB
ATD
OAS

- c. For the recipient in an intermediate care facility, completion of a semiannual check with the recipient or some knowledgeable person, other than staff in the facility, to confirm the continued presence of the recipient in the facility and that he is receiving the care intended.
- d. Notification to the county of its findings at the time of each social assessment, determination or redetermination of appropriate level of care or semiannual check of recipients in intermediate care. If the level of care is determined to be inappropriate, the level of care needed and other services which appear to be needed will be identified.
- e. Upon request from the county, determination of whether a recipient in an independent living arrangement or in nonmedical board and care is in need of a level of care higher than Group II nonmedical board and care, i.e., intermediate care or nursing home care.
(See Sections 30-260 and 30-265)

.42 County Services System Responsibilities

The county services system has primary responsibility for social assessments and for determination of the appropriate level of care, i.e., Group I or Group II, for recipients in nonmedical board and care facilities. Specific responsibilities of the services system are set forth in Sections 30-260 and 30-265.

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44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE
AND INTERMEDIATE CARE FACILITIES (Continued)

44-209

.43 Income Maintenance System ResponsibilitiesAB
ATD
OAS

The income maintenance system has primary responsibility for the determination of eligibility of recipients in nonmedical or intermediate out-of-home care, for assuring that aid payments are in the correct amount based upon the appropriate level of care as determined by the county services system or the State Medical-Social Review Team and for determining the monthly liability of the recipient who is in intermediate care. (See Sections 44-209.25 and 44-315.4.) The income maintenance system is also responsible for promptly certifying this liability in accordance with procedures adopted by the Department of Health Care Services.

Other specific responsibilities of the income maintenance system with respect to recipients in out-of-home care include:

- a. Initiation of request to the services system for determination of appropriate level of care and for placement services, as needed.

Such requests will be made on:

1. New applications where the individual is already living in out-of-home care or such care appears needed and there is no current determination of the level of care required.

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44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE 44-209
AND INTERMEDIATE CARE FACILITIES (Continued)

AB
ATD
OAS

2. Continuing cases where the recipient is in nonmedical board and care and a redetermination of the appropriate level of care is needed. (See Section 30-265.) Such requests are to be directed to the services system at least 60 days before the required redetermination must be completed.
3. Continuing cases where some change in living arrangement or in level of care appears to be indicated.
4. Continuing cases in intermediate care if a timely report from the State Medical-Social Review Team has not been received. (See Section .41, item b.) The State Medical-Social Review Team will normally make such determinations when due and will report to the county without a routine request from the county. See Section .41, item d above.
- b. Initiation of request through the services system for the required State Medical-Social Review Team semiannual check on recipients in intermediate care if a timely report is not received from the team. (See .41, items c and d above.)
- c. Assuring that all necessary documentation is in the county record, including current documentation to support the aid payment, the recipient's liability, if any, in an intermediate care facility and the level of care required and received by the individual.

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44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE
AND INTERMEDIATE CARE FACILITIES (Continued)

44-209

AB
ATD
OAS

.44 Controls

Controls must be established and maintained which will assure that timely review and reevaluation of the individual's needed level of care is made as provided in Section 30-260.

.5 Determination of Need - Recipient in Group I or Group II Nonmedical Board and Care Facility

Need of the recipient who is classified for Group I or Group II care is determined as set forth below in relation to the level of care he requires and receives. Special needs are not allowed.

Need Items	Group I Minimum to Moderate Care and Supervision	Group II Extensive Care and Supervision
A. Board, room, personal care and supervision		
Allow charge for care* <u>not to exceed</u>	\$168.00 (\$5.50 per day)	\$193.00 (\$6.35 per day)
Components of maxima		
1) Shelter and utilities		
2) Food		
3) Personal care and supervision including minimum basic services normally required for licensing.		
B. Personal and Incidental Needs** (Personal expenses, transportation, recreation, etc.)	\$ 38.00 (\$1.25 per day)	\$ 24.00 (80¢ per day)
C. Clothing, dry cleaning, extra laundry, shoe repair and other similar needs not normally provided by the facility.	\$ 15.00 (50¢ per day)	\$ 15.00 (50¢ per day)
D. Totals - based on <u>maxima</u> for board, care and supervision	\$221.00 (\$7.25 per day)	\$232.00 (\$7.65 per day)

* If the charge per month exceeds the specified ceiling, see Section 44-111.422c.

** If these needs are provided in whole or in part by the facility for an additional service charge, the recipient may need to use all or a portion of this allowance to pay the facility for these services.

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44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE
AND INTERMEDIATE CARE FACILITIES (Continued)

44-209

AB
ATD
OAS.51 Recipient Moves After the First Day of the Month

If, after the first day of a month, a recipient moves from an independent living arrangement to a nonmedical board and care arrangement or from one level of nonmedical board and care to another or vice versa, need must be determined in accord with the appropriate standard for the number of days he is in each living arrangement. These amounts are then combined to determine his total need for the month.

.6 Determination of Need - Recipient in Intermediate Care Facility

That portion of the recipient's need which is for board, room, personal care and supervision in an intermediate care facility is met by vendor payment made as designated by the Department of Health Care Services or by a combination of vendor payments and recipient liability.^{1/} Although vendor payments are OAS, AB or ATD payments, "need" as used in this section is limited to those needs which may be met from a cash grant.

1/ Vendor payment will be based on a rate of \$305 a month (\$10 per day) for board, room and personal care in an intermediate care facility. A provider of care in an intermediate care facility is not permitted to charge or to request payment from the recipient or from any person, organization or agency on his behalf of an amount which, from all sources, exceeds the established rate for board, room and care.

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(Pursuant to Government Code Section 11380.1)

44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE 44-209
AND INTERMEDIATE CARE FACILITIES (Continued)AB
ATD
OAS.61 Recipient in Intermediate Care Facility for Full Month

Need for the month is limited to \$15 for clothing and other need items not provided by the intermediate care facility. Special needs are not allowed.

.62 Recipient in Intermediate Care for Less than Full Month but Eligible During Period he is Outside the Intermediate Care Facility

Need for the month is determined on the basis of his living arrangement outside the intermediate care facility. Need, so determined, is not reduced because of the portion of the month he is in the intermediate care facility.

(If the recipient's income exceeds that portion of his need for the month which can be met from a cash grant but is less than his total need for the month, including the charge for care in the intermediate care facility, he is certified as a noncash grant recipient subject to the limitations set forth in Section 44-315.4. He is also certified for medical assistance under the Medi-Cal program in the same manner as a cash grant recipient.)

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(Pursuant to Government Code Section 11380.1)

44-211 MINIMUM NEEDS OF RECIPIENTS IN MEDICAL FACILITIES (PUBLIC OR 44-211
PRIVATE HOSPITALS OR NURSING HOMES)

AB .1 Applicant or Recipient is a Patient in a Medical Facility Which is
ATD
OAS Certified to Provide Inpatient Care Under the Medi-Cal Program or
for ATD or OAS in a Federal Medical Institution

.11 Needs During Temporary Period of Care in Medical Facility

Minimum needs based upon the individual's living arrangements prior to admission to the medical facility are presumed to continue during a temporary period of care in the medical facility, i.e., during the month of admission and the following month provided a living arrangement outside the medical facility is being retained by or for the recipient. If, during the temporary period of care in the medical facility, a living arrangement is being retained in a nonmedical board and care facility, need during the period of absence will be based on the "holding rate" for his room in the nonmedical facility during such absence.

If no living arrangement is being retained outside the medical facility, need is determined as specified in .13 below, effective the first of the month following admission to the medical facility.

.12 Temporary Visits Outside Hospital

For the purpose of need determination, as provided in .11 above, temporary care is not usually considered to be interrupted by short visits outside the hospital (no discharge) or if the discharged patient is readmitted to a medical facility within 10 days after his discharge.

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(Pursuant to Government Code Section 11380.1)

44-211 MINIMUM NEEDS OF RECIPIENTS IN MEDICAL FACILITIES (PUBLIC OR 44-211
PRIVATE HOSPITALS OR NURSING HOMES) (Continued)AB
ATD
OAS.13 Needs After Temporary Period of Care Expires

If the patient remains in the medical facility beyond a temporary period, his need thereafter is limited to \$15 a month for needs not provided by the facility. (See Section 40-183 regarding intraprogram status change from cash grant to Medically Needy when the patient's income is such he no longer is eligible to receive a cash grant.)

.2 Applicant or Recipient is Not A "Patient" in the Medical Facility or the Medical Facility is Not Certified to Receive Patients for Inpatient Care Under the Medi-Cal Program

.21 Private Facility

Minimum needs of the applicant or recipient in such facility shall be determined in the same manner as minimum needs of the recipient in nonmedical board and care subject to the limitations set forth in Section 44-209.5.

.22 Public Facility

Eligibility to aid does not exist if the facility is public.

DO NOT WRITE IN THIS SPACE

Effective 1/6/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-301 MONEY PAYMENT PRINCIPLE (Continued)

44-301

AB Aid payments shall be made in conformity with the money payment principle
ATD
OAS except when a problem in money management exists (see Section 44-307), or
AFDC when authorized sanctions are applied where a person, without good cause,
fails to cooperate in an established WIN program (see Section 30-158), or
when a vendor payment is required for an adult recipient who is in an
intermediate care living arrangement. (See Sections 44-209.32 and 44-315.4).

Aid payments are for the benefit of the recipient only and do not constitute
income to any other person.

44-303 AID PAYMENTS - DEFINED (Continued)

44-303

AB .34 In OAS, AB, and ATD, for the recipient who is in an intermediate
ATD care living arrangement (see Sections 44-209.32 and 44-315.4).
OAS Vendor payments for the recipient in intermediate care are made
as designated by the State Department of Health Care Services.

DO NOT WRITE IN THIS SPACE

Effective 1/6/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-305 AID PAYMENTS - PAYEE AND DELIVERY

44-305

.1 To Whom Paid and DeliveredAB
ATD
OAS.11 Adult Recipient

The warrant shall be paid only to the adult recipient unless:

- a. The recipient is in an intermediate care living arrangement (see Section 44-209) and a vendor payment to the provider of the care is required as provided in Section 44-315.4, or
- b. The recipient has a legally appointed guardian or conservator or there is a substitute payee as provided in Section 30-222. In such case, the payment is to be made to such guardian, conservator or substitute payee.

The warrant is to be delivered only to the payee or otherwise according to the payee's instructions.

44-305 AID PAYMENTS - PAYEE AND DELIVERY (Continued)

44-305

AB
APSB
ATD
OAS.2 Time of Delivery

- .21 Regular aid payments to OAS, AB, APSB, and ATD recipients shall be delivered monthly in advance on the first day of the month except for any portion of the payment which is made as designated by the State Department of Health Care Services, as a vendor payment on behalf of a recipient who is in an intermediate care living arrangement. (See Sections 44-209 and 44-315.4.)

Effective 1/6/71

DO NOT WRITE IN THIS SPACE

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-311 STATUTORY MAXIMUM GRANTS - ADULT PROGRAMS (Continued) 44-311

AB
ATD
OAS

.12 Recipient in Out-of-Home Care (See Sections 44-209 and 44-211)

.121 Grant Maximum for Recipients in Nonmedical Board and Care or Intermediate Care

Maximum grant for recipients classified for nonmedical board and care or intermediate care are limited to needs as specified in Sections 44-209.5 and 44-209.6, plus any vendor payment made on behalf of a recipient classified for intermediate care for all or a portion of a month.

.122 Grant Maximum for Recipients in a Medical Facility

Most needs of such recipients are met from the Medi-Cal or Medicare programs or a combination of both. Accordingly, maximum grants for such recipients are limited to minimum need allowances as specified in Section 44-211.

44-315 AMOUNT OF AID (Continued) 44-315

- .22 Subtracting the current nonexempt income from total need or, in OAS and AB, from the statutory maximum for the program if the statutory maximum is less than total need. (See Sections 44-311.11 and 44-311.12.) (For the recipient who is in an intermediate care living arrangement see .4 below.)

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-315 AMOUNT OF AID (Continued)

44-315

AB
OAS.23 Attendant Care and Statutory Maximum - Recipient in IndependentLiving Arrangement.231 Need Exceeds Statutory Maximum Because of Need for Attendant
Services (W&IC Section 12152 and 12652)

If a recipient's total need for a month exceeds the statutory maximum for the appropriate program, as set forth in Section 44.311, solely because of his need for attendant services, his grant is determined by deducting his nonexempt income from his total need.

.232 Need Exceeds Statutory Maximum Because of Needs Other Than
Attendant Services but Recipient Also Has Need for Attendant
Services

If a recipient's monthly need, exclusive of attendant services, exceeds the statutory maximum and he also has need for attendant services, his recognizable need for grant authorization purposes is determined by adding the need allowance for attendant services to the statutory maximum. His grant is then determined by deducting his nonexempt income from the recognizable need so determined. The nonattendant service need in excess of statutory maximum may be met from county supplementation and/or voluntary contributions within the limitations specified in Section 44-111.42.

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Effective 1/6/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-315 AMOUNT OF AID (Continued)

44-315

.3 Reporting Time of Change of Needs and CircumstancesAB
ATD
OAS

.31 In determining the amount of aid payment for a particular month, all nonexempt income and those needs which existed and were reported within 90 days after the date on which the need occurred, regardless of payment plan (cash or installment) are considered.

.311 If special circumstances such as the recipient's physical or mental incapacity make it unreasonable to expect he could have reported changes in his need within 90 days, or if he was not informed or was misinformed with respect to his reporting responsibility, any increase in his need is to be reflected in the aid payment for the months in which it existed, provided it was reported as soon as could reasonably be expected.

.312 A special need item reported within the specified time limitations may be considered in the aid payment starting in the month following that in which it is reported, rather than the month the need occurred, provided this plan does not disadvantage the recipient. (See Determination of Need chapter.)

AB
OAS

.32 When a recipient reports a bona fide special need, and has no leeway in his grant, it would be consistent with the code and with federal requirements to include a special need allowance starting as soon as possible but usually not later than the month following the expiration of the 90-day reporting limitation.

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Effective 1/6/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-315 AMOUNT OF AID (Continued)

44-315

AB .4 Recipient in Intermediate Care Living ArrangementATD
OAS

Pursuant to federal limitations a person may receive a payment on his behalf for intermediate care only if he would be entitled to receive OAS, AB or ATD assistance if he were not receiving care in an intermediate care facility. For purposes of this determination, it is presumed that an otherwise eligible person, so disabled that he requires intermediate care, would be entitled to receive OAS, AB or ATD if he were not in the intermediate care facility provided his net nonexempt income is less than \$315^{*} a month. If nonexempt income is \$315 a month or more, he is not eligible for a payment on his behalf for care in an intermediate care facility.

If the individual's net nonexempt income is less than \$315 a month, any cash grant to which he is eligible and his liability, if any, while in the intermediate care facility, are determined as set forth below. The recipient and the Department of Health Care Services must be informed promptly of his established liability and any change in that liability.

* This figure is based on average need of OAS, AB, and ATD recipients in independent living arrangements plus the average attendant service allowance for such recipients who require substantial personal care.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-315 AMOUNT OF AID (Continued)

44-315

AB
ATD
OAS.41 Recipient in Intermediate Care for Full Month.411 Recipient has no Nonexempt Income

A cash grant payment of \$15 is made to the recipient for his clothing and other needs not provided by the facility. He is certified to the Department of Health Care Services as an eligible OAS, AB or ATD recipient with no liability for the cost of care in the intermediate care facility.

.412 Recipient has Nonexempt Income Less than \$15

A cash grant payment is made to the recipient in an amount equal to the difference between his income and \$15. He is certified to the Department of Health Care Services as an eligible OAS, AB or ATD recipient with no liability for the cost of care in the intermediate care facility.

.413 Recipient has Nonexempt Income of \$15 a Month or More

If the recipient's income is \$15 a month or more but less than \$315 (see Section .4 above) he is certified to the Department of Health Care Services as a "noncash grant OAS, AB or ATD recipient." His liability to meet a portion of the cost of his care in the intermediate care facility is the amount, if any, by which his nonexempt income for the month exceeds \$15. (He retains \$15 of his income for his clothing and other needs not provided by the facility.)

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Effective 1/6/71

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FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-315 AMOUNT OF AID (Continued)

44-315

AB
ATD
OAS.42 Recipient in Intermediate Care for Less than a Full Month

When an eligible recipient is in intermediate care for less than a full month and is also eligible for a cash grant payment for all or a portion of the month during which he is not in the intermediate care facility, his need for the month is based on his living arrangement outside the intermediate care facility. The cash grant and his liability, if any, in such months are determined as follows:

.421 Recipient Admitted to the Intermediate Care FacilityAfter the First of the Month

His income is applied first toward his need based on his living arrangement outside the intermediate care facility and his cash grant is determined as provided in Section 44-315.22. He is certified to the Department of Health Care Services or its designated agent as an eligible OAS, AB or ATD recipient. (If the individual's income exceeds his need based on a living arrangement outside the intermediate care facility, his liability is the amount by which his income exceeds such need. If the recipient is admitted to the intermediate care facility from a nursing home or hospital, income required to meet his liability for nursing home or hospital care that month is not considered available in determining his liability in the intermediate care facility.)

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Effective 1/6/71

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WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-315 AMOUNT OF AID (Continued)

44-315

AB
ATD
OAS.422 Recipient Released from the Intermediate Care Facility
After the First of the Month

Liability for the month is determined in the same manner as if the recipient were in the facility for a full month unless the total amount due the intermediate care facility for the days of care provided, is less than the recipient's liability so determined. In such case, his liability is the amount due the facility. Income, if any, in excess of his liability is applied toward meeting his need based on his living arrangement outside the intermediate care facility and his cash grant is determined as provided in Section 44-315.22.

.43 Change in Recipient's Liability

If there is a change in the recipient's circumstances which changes his continuing liability, the change in liability is made effective the first of the month following the date on which the change is reported to the Department of Health Care Services or its designated agent. If the change in circumstances affects liability for prior months, any resulting overpayments should, if possible, be adjusted by means of a current cash adjustment or collection, (subject to the limitation of regulation Sections 44-333 and 44-335) rather than as an offset against liability in future months.

If the change results in underpayments for prior months, the Department of Health Care Services, or its designated agent, shall be informed so that any additional vendor payments due to operators may be made.

Effective 1/6/71

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FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

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FEB 10 1971

Office of Administrative Procedure

ENDORSEDAPPROVED FOR FILING
(GOV. CODE (1885.2))

FEB 10 1971

Office of Administrative Procedure

Copy below is hereby certified to be a true
and correct copy of regulations adopted, or
amended, or an order of repeal by:

State Department of Social Welfare
(Agency)

Dated: February 10, 1971By: *Patricia E. Vail*Director

(Title)

FILEDIn the office of the Secretary of State
of the State of California

FEB 10 1971

At 4:40 o'clock P.M.

EDMUND G. BROWN Jr., Secretary of State

By: *Patricia E. Vail*
Deputy Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

CERTIFICATE OF COMPLIANCE
Section 11422.1, Government Code

The State Department of Social Welfare hereby certifies that said agency has, within 120 days of the effective date of the emergency regulations (or order of repeal) filed with the Secretary of State on 10/13/70, given notice of the adoption thereof and afforded interested persons the opportunity to present statements, arguments, or contentions in a manner substantially similar to that provided by Sections 11423, 11424, and 11425, Government Code.

Section 44-111	effective 12/1/70
Section 44-113	effective 12/1/70
Section 44-115	effective 12/1/70
Section 44-209	effective 12/1/70
Section 41-307	effective 12/1/70

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FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

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MAR 2 - 1971

Office of Administrative Procedure

ENDORSED

APPROVED FOR FILING
(Gov. Code (1986.5))

MAR 2 - 1971

Office of Administrative Procedure

DO NOT WRITE IN THIS SPACE

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

State Department of Social Welfare

(Agency)

Dated: February 11, 1971

By:

Director

(Title)

FILED

In the office of the Secretary of State
of the State of California

MAR 2 - 1971

At 11:45 o'clock A.M.

EDMUND G. BROWN Jr., Secretary of State

By:

Deputy Secretary of State

DO NOT WRITE IN THIS SPACE

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

CERTIFICATE OF COMPLIANCE

Section 11422.1, Government Code

The State Department of Social Welfare hereby certifies that said agency has, within 120 days of the effective date of the emergency regulations (or order of repeal) filed with the Secretary of State on 11/2/70, given notice of the adoption thereof and afforded interested persons the opportunity to present statements, arguments, or contentions in a manner substantially similar to that provided by Sections 11423, 11424, and 11425, Government Code.

Section 44-115 effective 12/1/70
Section 44-207 effective 12/1/70
Section 23-401 effective 12/1/70

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DEPARTMENT OF SOCIAL WELFARE

744 P STREET
SACRAMENTO 95814

RECEIVED FOR FILING

MAR 9 - 1971

Office of Administrative Procedure

In the Matter of a Demonstration of)
 the Benefits of Providing Part-Time)
 Child Care on a 24-Hour Day, 7-Day)
 Per Week Basis Within the City of)
 San Diego Model Neighborhood)

FILED
 In the office of the Secretary of State
 of the State of California

MAR 9 - 1971

At 3:50 o'clock P.M.

EDMUND S. BROWN, Jr., Secretary of State

ORDER

By *[Signature]*
Deputy Secretary of State

I

With the approval of the United States Department of Health, Education, and Welfare for a waiver of statewideness for services to former and potential applicants and recipients already received under the provisions of Section 1115 of the Social Security Act, the State Department of Social Welfare proposes to conduct an experimental project, in and jointly with San Diego County, to demonstrate and test the benefits of a system of child care which represents a modification from current practices and standards. The intent of this project is to meet the needs of families whose hours of employment do not fit into the usual pattern of day care between the hours of 7 a.m. and 6 p.m. by setting up programs in the economically poorer districts of the city, designated City of San Diego Model Neighborhood, and providing care on a round-the-clock basis, 24 hours a day, 7 days a week. The objective of the demonstration is to develop a basis for recommending possible changes concerning present regulations pertaining to group child care. Model Cities funds have been approved for this activity, to cover 25% of the cost. The other 75% will be provided through the federal services program under Title IV A of the Social Security Act.

II

In order to conduct and administer the project, it is necessary to waive the enforcement of certain laws and regulations governing the public assistance and public protection program for the period to begin on March 11, 1971, and end on or before February 28, 1974.

III

For the purpose of this project and pursuant to Section 18204 of the Welfare and Institutions Code, I hereby waive the operation of the following regulations, effective March 11, 1971, but only in the manner and to the degree required by the nature of the project.

Effective March 11, 1971

TITLE 22 CALIFORNIA ADMINISTRATIVE CODE

- A. 34066 - Qualifications of Directors
34068.4 - Qualifications of Teachers
34517 - Qualifications of Director

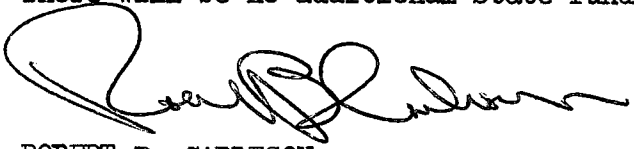
Regulations are waived to permit experimentation with staffing standards and to make as full use as possible of indigenous personnel.

The above regulations are waived with the exception that during school vacation periods or at other times when more than 10 children are in the child care home for a period of more than 3 consecutive hours during a day, at least one person meeting the qualifications of a teacher as spelled out in Regulation 34068.4 will be present in each child care home to plan and carry out a day care program.

- B. 34103 - Building - General Requirements - All Nurseries
34105 - Indoor Play Space - General Requirements
34107 - Indoor Play Space - Size of Floor Area
34109 - Isolation
34111 - Toilets and Handwashing Facilities
34113 - Drinking Water
34115 - Kitchens
34117 - Office Space
34119 - Staff Rest Room - Full Day Programs
34121 - Furniture and Equipment
34123 - Storage Space

The above regulations are waived providing prior approval of the State Department of Social Welfare is obtained for any action or plan of action which would, in the absence of such waiver, constitute a variation from the regulations cited above.

There will be no additional State funds involved as a result of this project.



ROBERT B. CARLESON
Director of Social Welfare

Date: March 8, 1971

Effective: March 11, 1971

LEGAL NOTICE

IN THE MATTER OF A DEMONSTRATION OF THE BENEFITS OF PROVIDING PART-TIME CHILD CARE ON A 24-HOUR DAY, 7-DAY PER WEEK BASIS WITHIN THE CITY OF SAN DIEGO MODEL NEIGHBORHOOD

With the approval of the United States Department of Health, Education, and Welfare for a waiver of statewideness for services to former and potential applicants and recipients already received under the provisions of Section 1115 of the Social Security Act, the State Department of Social Welfare proposes to conduct an experimental project, in and jointly with San Diego County, to demonstrate and test the benefits of a system of child care which represents a modification from current practices and standards. The intent of this project is to meet the needs of families whose hours of employment do not fit into the usual pattern of day care between the hours of 7 a.m. and 6 p.m. by setting up programs in the economically poorer districts of the city, designated City of San Diego Model Neighborhood, and providing care on a round-the-clock basis, 24 hours a day, 7 days a week. The objective of the demonstration is to develop a basis for recommending possible changes concerning present regulations pertaining to group child care. Model Cities funds have been approved for this activity, to cover 25 % of the cost. The other 75% will be provided through the federal services program under Title IV A of the Social Security Act.

For the purpose of this project and pursuant to Section 18204 of the Welfare and Institutions Code, I hereby waive the operation of the following regulations for the period to begin on March 11, 1971, and end on or before February 28, 1974, but only in the manner and to the degree required by the nature of the project.

Title 22 California Administrative Code

A. 34066, 34068.4, 34517

Regulations are waived to permit experimentation with staffing standards and to make full use as possible of indigenous personnel.

The above regulations are waived with the exception that during school vacation periods or at other times when more than 10 children are in the child care home for a period of more than 3 consecutive hours during a day, at least one person meeting the qualifications of a teacher as spelled out in Regulation 34068.4 will be present in each child care home to plan and carry out a day care program.

B. 34103, 34105, 34107, 34109, 34111, 34113, 34115, 34117, 34119, 34121, 34123

The above regulations are waived providing prior approval of the State Department of Social Welfare is obtained for any action or plan of action which would, in the absence of such waiver, constitute a variation from the regulations cited above.

There will be no additional State funds involved as a result of this project.

ROBERT B. CARLESON
Director of Social Welfare

DEPARTMENT OF SOCIAL WELFARE

744 P STREET
SACRAMENTO 95814

March 31, 1971

FILEDIn the office of the Secretary of State
of the State of California**APR 9 - 1971**

At 3:00 o'clock P. M.

EDMUND G. BROWN, Jr., Secretary of State

By *[Signature]*
Deputy Secretary of State

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APR - 9 1971

Office of Administrative Procedure

CERTIFICATE OF COMPLIANCE - SECTION 11422.1, Gov. Code

The State Department of Social Welfare hereby certifies that said agency has, within 120 days of the effective date of the emergency regulations (or order of repeal) filed with the Secretary of State on December 30, 1970, given notice of the adoption thereof and afforded interested persons the opportunity to present statements, arguments, or contentions in a manner substantially similar to that provided by Sections 11423, 11424, and 11425, Government Code.

State Department of Social WelfareBy *[Signature]*

ROBERT B. CARLESON, Director

DEPARTMENT OF SOCIAL WELFARE

744 P STREET
SACRAMENTO 95814

April 15, 1971

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APR 19 1971

Office of Administrative Procedure

CERTIFICATE OF COMPLIANCE - SECTION 11422.1, Gov. Code

The State Department of Social Welfare hereby certifies that said agency has, within 120 days of the effective date of the emergency regulations (or order of repeal) filed with the Secretary of State on December 21, 1970, given notice of the adoption thereof and afforded interested persons the opportunity to present statements, arguments, or contentions in a manner substantially similar to that provided by Sections 11423, 11424, and 11425, Government Code.

State Department of Social WelfareBy 


ROBERT B. CARLESON, Director

FILEDIn the office of the Secretary of State
of the State of California

APR 19 1971

At 11:55 o'clock a.m.

EDMUND G. BROWN, Jr., Secretary of State

By 
Deputy Secretary of State

FACE SHEET
FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

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APR 29 1971

Office of Administrative Procedure

ENDORSED

APPROVED FOR FILING
(GOV. CODE 11380.1)

APR 29 1971

Office of Administrative Procedure

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

State Department of Social Welfare

(Agency)

Dated: April 29, 1971

By: 

Director

(Title)

FILED

In the office of the Secretary of State
of the State of California

APR 29 1971

At 4:50 o'clock P.M. 4J
EDMUND G. BROWN Jr., Secretary of State
By: Patricia E. Voil
Deputy Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

FINDING OF EMERGENCY

The amendments to the following regulations are emergency measures necessary for the immediate preservation of the public health, safety and general welfare within the meaning of the provisions of Section 11421(b) of the Government Code:

Revise:

Section 44-111.25 (interpretation only)
44-313

The following facts constitute the emergency:

1. On April 16, 1971, the Administrator of the Department of Health, Education, and Welfare ruled that unless the State of California has taken steps to be in compliance with federal requirements by July 1, 1971, he could not certify on that date that the State of California was in compliance and could receive federal funds.
2. On April 26, 1971, the California Supreme Court's Decision became final in the case of California Welfare Rights Organization v. Robert B. Carleson, wherein the court ruled that the Director of Social Welfare has authority to adopt regulations increasing the statutory maximum set by the California Legislature in Welfare and Institutions Code Section 11450 upon the United States Department of Health, Education, and Welfare issuing a formal ruling that said legislative provision causes the State of California to be out of conformity with federal requirements.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

3. That the California Supreme Court recognized that the expenditures for the AFDC program in the fiscal year 1970-1971 are limited to the appropriation made by Item 279 of the Budget Act. The court stated beginning at page 4 of its decision:

"We recognize that the Social Welfare Director may well be confronted with a dilemma not of his own choosing if payment of the revised need standard of EAS 44-212, subject to the adjusted maximum schedule of EAS 44-313 but not to the percent reduction attempted by EAS 44-315, does result in exhaustion of the specific appropriation for AFDC made in Item 279 (par. 1), If the specific appropriation is exhausted before the end of fiscal 1970-71 and if the Director of Finance fails to approve excess expenditures, then solution of any resulting AFDC crisis should be sought from the Legislature which may either provide supplemental specific appropriations for the program or if need be may authorize conversion to a percent reduction plan in order to accommodate fiscal realities. ..."

4. The California Supreme Court also stated at page 26 of its decision:

"It appears regrettable that the Legislature has not provided clear direction to the Director of Social Welfare for his guidance in such circumstances as are presented in this litigation. Having enjoined upon the counties the payment of full needs subject only to maximum schedules but not to a percent reduction system (§ 11207, see ante, note in fn. 17), and upon the director the supervision of the administration of AFDC in order to secure full compliance with state and federal laws (§ 10600) as well as to avoid imposing upon the counties a greater share of welfare costs than they would bear absent the expenditure limitations of the 1970 Budget Act (see Item 279, par. 2), the Legislature has failed to lay down directives providing authority to reconcile these various instructions when, as here, they appear to conflict. However, it is not the function of this court to legislate, and in the premises we deem it appropriate to refer the Director of the Department of Social Welfare to the Legislature for relief."

5. The California Legislature at present is in session and can pass legislation to supersede these emergency regulations should it so desire. Both houses presently have under consideration legislation which, if enacted, would bring California into conformity with federal law.
6. On April 28, 1971, the Alameda County Superior Court conducted a hearing and maintained its April 19, 1971 Peremptory Writ of Mandate commanding the Director of the State Department of Social Welfare to immediately

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CONTINUATION SHEET
FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

"... amend SDSW-EAS 44-111.25 (or alter the interpretation of that regulation) so as to provide that an employed applicant for AFDC aid must first demonstrate eligibility without a deduction from his earned income of the 'disregard,' but with a deduction of his 'work-related expenses,' such eligibility being then determined by comparing the net income so derived to the appropriate standard of need established by defendants; and that if four successive months have passed when an employed recipient would not have been eligible for aid as an applicant, then commencing with the fifth month such recipient shall be required to re-establish eligibility as an applicant (as provided in this paragraph) and not as a recipient;"

7. The regulations set forth are necessary to comply with the order of the Alameda County Superior Court referred to above and to meet the requirements of the federal Department of Health, Education, and Welfare so as to avoid a July 1, 1971 termination of federal funds.
8. The regulations set forth must be adopted immediately to permit Robert B. Carleson, Director of the State Department of Social Welfare to immediately comply with the order of the Alameda County Superior Court and to assure that California can receive federal funds after July 1, 1971.
9. The regulations set forth must become effective on June 1, 1971 to afford the state and counties the minimum time necessary for implementation following their adoption, and to assure availability of state funds.

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME

44-111

.25 Exemptions Not Applicable

Neither the family exemption nor the student exemption shall be applied in determining eligibility of applicant families unless in any one of the four preceding months the family's needs were met in whole or in part by an AFDC payment.

If the family is determined to be eligible for aid without these exemptions, the family and the student exemption is applied in determining the amount of the initial and subsequent aid payments.

Interpretation - An employed applicant for AFDC aid must first demonstrate eligibility without a deduction from his earned income of the "disregard," but with a deduction of his "work-related expenses," such eligibility being then determined by comparing the net income so derived to the appropriate standard of need established by the Department; and that if four successive months have passed when an employed recipient would not have been eligible for aid as an applicant, then commencing with the fifth month such recipient shall be required to re-establish eligibility as an applicant (as provided in this paragraph) and not as a recipient.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-313 MAXIMUM STATE PARTICIPATION BASE - CHILDREN'S PROGRAMS

44-313

AFDC

The maximum state participation base for needy children living with an eligible parent or other relative shall be the following amounts. These maximum amounts shall supersede those set forth in Welfare and Institutions Code Section 11450(a), to the extent they are inconsistent on the effective date of this section and shall be applied after the eligibility determination procedures described in these regulations.

<u>Maximum Participation Base</u>		
<u>Number Eligible Children in Same Home</u>	<u>One Eligible Relative in Home</u>	<u>Eligible Parent and Parent's Spouse in Home Eligible under 44-213.33</u>
1	\$176	\$197
2	\$204	\$225
3	\$261	\$282
4	\$311	\$331
5	\$353	\$374
6	\$388	\$409
7	\$416	\$437
8	\$437	\$458
9	\$450	\$471
10	\$456	\$477
11	\$463	\$483
12	\$469	\$489
13	\$475	\$495
14	\$481	\$501
15	\$487	\$507

Plus \$6 for each additional eligible child

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Effective 6/1/71

1 FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

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APR 30 1971

Office of Administrative Procedure

ENDORSED

APPROVED FOR FILING
(GOV. CODE 11380.1)

APR 30 1971

Office of Administrative Procedure

Copy below is hereby certified to be a true
and correct copy of regulations adopted, or
amended, or an order of repeal by:

State Department of Social Welfare

(Agency)

Dated: April 30, 1971

By: 

Director

(Title)

FILED

In the office of the Secretary of State
of the State of California

APR 30 1971

At 4:30 o'clock P. M.

EDMUND G. BROWN Jr., Secretary of State

By Patricia E. Vail
Deputy Secretary of State

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DO NOT WRITE IN THIS SPACE

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

FINDING OF EMERGENCY

The Director of the Department of Social Welfare finds that temporary situations arise when recipients in the nonmedical board and care facilities have additional needs which cannot be met by the payments to cover cost of care. Such situations require both their temporary removal from such facilities and a reduction in their grants with attendant hardships including possible loss of life for such recipients and extreme administrative and budgetary difficulties for state and local welfare departments. Regulations to provide for such emergency needs must be adopted as soon as possible to avoid the hardships involved and reduce the administrative and budgetary problems.

The amendments to the following regulation are emergency measures necessary for the immediate preservation of the public health, safety and general welfare within the meaning of the provisions of Government Code Section 11421(b) to be effective in accordance with Government Code Section 11422(c):

Section 44-209.5

The listed regulation is therefore adopted as an emergency regulation to become effective immediately upon filing with the Secretary of State.

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**CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE
AND INTERMEDIATE CARE FACILITIES (Continued)

44-209

AB
ATD
OAS

.5 Determination of Need — Recipient in Group I or Group II Nonmedical Board and Care Facility

Need of the recipient who is classified for Group I or Group II care is determined as set forth below in relation to the level of care he requires and receives. Special needs are not allowed, except those additional needs specified in B below.

Need Items	Group I Minimum to Moderate Care and Supervision	Group II Extensive care and Supervision
<p>A. Board, room, personal care and supervision.</p> <p>Allow charge for care* <u>not to exceed</u></p> <p>Components of maxima</p> <p>1) Shelter and utilities</p> <p>2) Food</p> <p>3) Personal care and supervision, including minimum basic services normally required for licensing.</p>	<p><u>Total of A and B</u> <u>not to exceed</u></p> <p>\$168.00 (\$5.50 per day)</p>	<p><u>Total of A and B</u> <u>not to exceed</u></p> <p>\$193.00 (\$6.35 per day)</p>
<p>B. <u>Additional needs of a temporary nature to guarantee continued living arrangements of the recipient. Maximum allowances are \$148 for Group I and \$162 for Group II.</u></p>		
<p>C. Personal and Incidental Needs** (Personal expenses, transportation, recreation, etc.)</p>	<p>\$ 38.00 (\$1.25 per day)</p>	<p>\$ 24.00 (80¢ per day)</p>
<p>D. Clothing, dry cleaning, extra laundry, shoe repair and other similar needs not normally provided by the facility.</p>	<p>\$ 15.00 (50¢ per day)</p>	<p>\$ 15.00 (50¢ per day)</p>
<p>E. Totals — <u>not to exceed</u></p>	<p>\$221.00 (\$7.25 per day)</p>	<p>\$232.00 (\$7.65 per day)</p>

DO NOT WRITE IN THIS SPACE

DEPARTMENT OF SOCIAL WELFARE

744 P STREET
SACRAMENTO 95814

May 5, 1971

CERTIFICATE OF COMPLIANCE - SECTION 11422.1, GOVERNMENT CODE

The State Department of Social Welfare hereby certifies that said agency has, within 120 days of the effective date of the emergency regulations (or order of repeal) filed with the Secretary of State on January 6, 1971, given notice of the adoption thereof and afforded interested persons the opportunity to present statements, arguments, or contentions in a manner substantially similar to that provided by Sections 11423, 11424, and 11425, Government Code.

State Department of Social WelfareBy 

ROBERT B. CARLESON, Director

RECEIVED FOR FILING

MAY 6 - 1971

Office of Administrative Procedure

FILED

In the office of the Secretary of State
of the State of California

MAY 6 - 1971

At 9:06 o'clock P.M.

EDMUND G. CROW: Jr., Secretary of State

By Patricia E. Vail
Deputy Secretary of State

DEPARTMENT OF SOCIAL WELFARE

744 P STREET
SACRAMENTO 95814

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State Department of Social WelfareBy 

ROBERT B. CARLESON, Director

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Office of Administrative Procedure

FILEDIn the office of the Secretary of State
of the State of California

MAY 6 - 1971

At 9:06 o'clock P. M.

EDMUND G. CROWLEY, Secretary of State

By 
Deputy Secretary of State

In the Matter of a Demonstration)
to Test Whether or Not an Infant)
Day Care Program Can Be Operated)
Satisfactorily in a Proprietary)
Facility)

Office of Administrative Procedure

FILED
In the office of the Secretary of State
of the State of California

MAY 26 1971

At 12:30 o'clock P. M.
EDMUND G. BROWN Jr. Secretary of State
By *J. Lowmeyer*
Deputy Secretary of State

MAY 24 1971

I

Because of the increasing needs for day care programs for not only children of public assistance recipients and low income families but for children of higher income families as well, the State Department of Social Welfare proposes to conduct an experimental project to demonstrate whether or not an infant day care program can be operated satisfactorily in a proprietary facility, and whether a profit making corporation can provide the level of care required for infants of group care. As a first step, it is planned to test the premise that a profit making organization, utilizing almost ideal conditions, can provide adequate care to infants. Once this premise has been tested and standards and costs can be identified, then a similar arrangement can be considered for low income persons with cost sharing through government subsidization or private contributions. If the results are affirmative, this would call for a reconsideration of State Department of Social Welfare regulations which now limit infant day care to nonprofit organizations. A nonfunded project will be established with Kinderlodge, Inc., La Jolla, California, to test the above factors.

II

In order to conduct and administer the project, it is necessary to waive the enforcement of certain regulations governing the public protection program for the period to begin on June 1, 1971, and end on or before May 31, 1974.

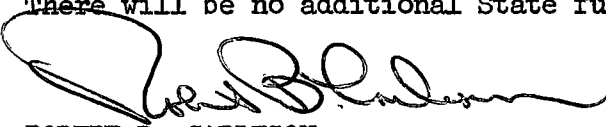
III

For the purpose of this project and pursuant to Section 18204 of the Welfare and Institutions Code, I hereby waive the operation of the following regulation effective June 1, 1971, but only in the manner and to the degree required by the nature of the project.

CALIFORNIA ADMINISTRATIVE CODE - TITLE 22

Section 34503 Regulation which limits operation of infant group care to nonprofit organizations is modified to test the benefits of providing infant group care in a proprietary setting.

There will be no additional State funds involved as a result of this project.


ROBERT B. CARLESON
Director of Social Welfare

DATE: MAY 18 1971
Effective June 1, 1971

LEGAL NOTICE

PROPOSED DEMONSTRATION PROJECT TO TEST WHETHER OR NOT AN INFANT DAY CARE PROGRAM CAN BE OPERATED SATISFACTORILY IN A PROPRIETARY FACILITY

Because of the increasing needs for day care programs for not only children of public assistance recipients and low income families but for children of higher income families as well, the State Department of Social Welfare proposes to conduct an experimental project to demonstrate whether or not an infant day care program can be operated satisfactorily in a proprietary facility, and whether a profit making corporation can provide the level of care required for infants of group care. As a first step, it is planned to test the premise that a profit making organization, utilizing almost ideal conditions, can provide adequate care to infants. Once this premise has been tested and standards and costs can be identified, then a similar arrangement can be considered for low income persons with cost sharing through government subsidization or private contributions. If the results are affirmative, this would call for a reconsideration of State Department of Social Welfare regulations which now limit infant day care to nonprofit organizations. A nonfunded project will be established with Kinderlodge, Inc., La Jolla, California, to test the above factors.

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California Administrative Code - Title 22

Section 34503 Regulation which limits operation of infant group care to nonprofit organizations is modified to test the benefits of providing infant group care in a proprietary setting.

There will be no additional State funds involved as a result of this project.

Robert B. Carleson
Director of Social Welfare

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

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Office of Administrative Procedure

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JUN 1 - 1971

Office of Administrative Procedure

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

State Department of Social Welfare

(Agency)

Dated: June 1, 1971

By: 

Director

(Title)

FILED

In the office of the Secretary of State
of the State of California

JUN 1 - 1971

At 4:25 o'clock P. M.

EDMUND G. BROWN Jr., Secretary of State

By: 
Deputy Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building regulations.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

42-340 UNEMPLOYMENT OF A PARENT OR PARENTS

42-340

AFDC.1 Definition of Unemployed Parent

An unemployed parent for the purposes of this section is a natural parent adoptive parent or stepparent with whom the child is living who is employed less than 130 hours per month, less than 3/4 of the number of hours considered by the Department of Human Resources Development to be full-time for the job, or less than the number of hours specified in federal regulations adopted by the Department of Health, Education, and Welfare for unemployed fathers, whichever is less. After December 31, 1971 the unemployed parent shall also not be concurrently receiving or eligible to receive unemployment insurance benefits.

.2 Definition of Deprivation Due to Unemployment of a Parent or Parents

The child shall be considered deprived due to the unemployment of a parent or parents when all of the following conditions are met.
The unemployed parent:

.21 Shall have worked not more than 30 hours each week for at least 30 consecutive calendar days immediately prior to the beginning date of AFDC (or not more than the number of hours specified in federal regulations adopted by the Department of Health, Education, and Welfare for unemployed fathers, whichever is less), and shall not, during such period, or while in receipt of AFDC, have refused without good cause to apply for or to accept an offer of job training or a definite offer of employment meeting any applicable minimum wage requirements. Determination of good cause for refusal of a job offer or training shall be made by the Department of Human Resources Development or by the Social Services System as provided in Section 30-156.

.22 Shall either:

.221 Be currently registered with the Department of Human Resources Development and be available for and seeking employment, or

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

42-340 UNEMPLOYMENT OF A PARENT OR PARENTS (Continued)

42-340

AFDC

- .222 Be referred to or accepted for or participating as a beneficiary in any of the following:

WIN, ETS, and MDTA projects; Job training programs approved by the Director of the State Department of Social Welfare; WIN equivalent projects established as part of an ongoing manpower development program under provisions of the Economic Opportunity Act and Title 1, Elementary and Secondary Education Act.

- .23 Shall, when the other parent living in the home is an employed parent:

- .231 Have been in the labor market for full-time employment at least the 30 day period immediately prior to the beginning date of aid, or have a county approved plan for full-time employment, and

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CONTINUATION SHEET
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WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

42-340 UNEMPLOYMENT OF A PARENT OR PARENTS (Continued)

42-340

AFDC

.232 Have a satisfactory plan for the care of the children when both parents are out of the home, and

.233 Have, if the unemployed parent is the mother, the ability to work or participate in job training and also care for the family.

.3 Penalties for Refusing Employment or Job Training Without Good Cause

.31 Win Families

All direct cash payments to the WIN family shall be terminated immediately upon receipt of notice from the Department of Human Resources Development that the refusal was without good cause and AFDC shall be continued as a protective or vendor payment subject to other conditions attached to the WIN sanction (see Sections 30-158 and 44-307).

.32 Non-WIN Families

AFDC to the non-WIN family shall be discontinued effective on the next installment delivery date following expiration of the 15 calendar day notice to the family that the refusal was without good cause. The county shall mail the advance notice immediately upon such determination by the Social Services System.

.4 Discontinuance Due to Employment

.41 Aid shall be discontinued, effective at the end of the month in which a parent accepts an offer of employment that is expected to provide him with more hours of work than specified in Section 42-340.1 during the following month. If the county is unable to discontinue aid at the end of such month because the 15-day advance notice period has not yet expired, aid shall be discontinued effective on the next installment delivery date.

.411 The notification of discontinuance on Form ABCD 239 shall clearly indicate:

- a. That the action is based on an expectation the parent will work more than such number of hours in the next month, and
- b. That the discontinuance will be withdrawn if the parent submits information substantiating that less than such number of hours were actually worked, that no offer of employment was refused without good cause, and that other conditions of eligibility for AFDC (including neediness) are met. (See Section 44-331.123.)

.5 Conditions to be Met for Federal Participation in Payments to AFDC-U Families

.51 Deprivation shall be due to the unemployment of the child's father.

.52 The father shall have established a connection with the labor force:

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FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

42-340

UNEMPLOYMENT OF A PARENT OR PARENTS (Continued)

42-340

AFDC

.521 By meeting either of the following requirements in six calendar quarters within any 13 calendar quarter period ending within one year before the date of application for aid:

- a. Earned a gross of at least \$50 during the quarter, or
- b. Participated for at least five days during the quarter in any one or more of the following:

A former Community Work-Training Project; an EOA Title V Project; an ETS Project administered in accordance with Chapter 31-200; an activity administered under the WIN Program; or any other WIN-equivalent activity administered under MDTA or other manpower programs.

OR

.522 By receiving, or being eligible to receive, Unemployment Insurance Benefits within one year before application. The words "being eligible to receive," as used in this section mean that:

- a. The father would have been eligible to receive unemployment compensation upon filing application, or
- b. The father performed work not covered by Unemployment Compensation Law and such work, if it had been covered, would (together with any covered work he performed) have made him eligible to receive unemployment compensation upon filing application.

.53 There is no federal or state participation for any period from the 31st day after the beginning date of AFDC until the father, when appropriate, under Section 30-162, is referred to WIN.

.54 Prior to January 1, 1972 the father shall not have received unemployment insurance benefits during a week for which AFDC was paid. This provision is part of the definition of an unemployed parent effective January 1, 1972 (see Section 42-340.1).

.6 Readjustment Period

There is no readjustment period. Aid ceases when deprivation due to unemployment ends, provided no other basis of deprivation exists.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

30-155 REQUIREMENTS FOR REFERRAL OF AFDC RECIPIENTS TO EMPLOYMENT 30-155
OR REHABILITATION LEADING TO EMPLOYMENTAFDC

- .1 The AFDC-U parent must accept referral to WIN when such referral is appropriate.
- .2 When referral to WIN is not appropriate, the unemployed parent must at all times be currently registered with the Department of Human Resources Development.
- .3 For unemployed parents not eligible for WIN, or for whom WIN is not available, the following referral procedures shall apply:
 - .31 The Social Services system completes and gives to the recipient Form CA 340 A, Referral to Employment Services. The recipient takes the form to the designated office of the Department of Human Resources Development. The Department of Human Resources Development completes the reverse of the form as soon as possible and mails it to the Social Services system.
 - .32 Information known to, or actions taken by, either of the two agencies with respect to a recipient may affect the other agency. Thus, procedures shall be established by which each keeps the other advised of the current status of their activities with each recipient. The following forms shall be used for this purpose:
 - .321 CA 331, Notice of County Welfare Actions. This is for use by the county welfare department to notify the Department of Human Resources Development of factors which may affect its services.
 - .322 CA 333, Report to County Welfare Department. This is for use by the Department of Human Resources Development to notify the county welfare department of factors which may affect the plan of services or the recipient's eligibility. The circumstances may be described by the Department of Human Resources Development on the form or as an attachment.
- .4 An unemployed parent shall apply for and accept a bona fide offer of employment unless there is good cause for refusal. (See Section 30-157.)

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Effective 7/1/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

30-155 REQUIREMENTS FOR REFERRAL OF AFDC RECIPIENTS TO EMPLOYMENT 30-155
OR REHABILITATION LEADING TO EMPLOYMENT (Continued)

AFDC .8 A bona fide offer of employment is a definite offer to an individual
of employment meeting any applicable minimum wage requirements.

30-156 REFUSAL TO APPLY FOR OR ACCEPT EMPLOYMENT OR TRAINING 30-156
LEADING TO EMPLOYMENT

.1 For Persons Referred to WIN

The Department of Human Resources Development shall determine whether good cause exists for refusal of employment or job training, including participation in WIN. If the person requests a fair hearing, the California Unemployment Insurance Appeals Board shall conduct the hearing. The decision of the Board shall be binding on the county welfare department.

.2 For Persons not Referred to WIN

The Social Services System shall determine whether good cause exists for refusal of employment or job training. If the person requests a fair hearing, such hearing shall be conducted by the State Department of Social Welfare.

.3 A decision that good cause for refusal of employment or job training did not exist shall be made only on the basis of an individual determination in each case under Sections 30-156.1 and 30-156.2 that an offer of employment or job training was actually made.

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WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

30-158 PENALTY FOR REFUSAL TO COOPERATE WITHOUT GOOD CAUSE
(Continued)

30-158

AFDC

- .17 If a recipient refuses referral to WIN and also refuses to accept counseling, the 60-day period does not apply and assistance for such individual shall be terminated as specified in Sections 30-158.14 and 42-340.3.

.2 Persons Not Referred to WIN

- .21 An AFDC-U parent not referred to WIN who does not have good cause for refusal to apply for or accept employment or training as defined in Section 30-157 renders the family ineligible for aid. (See Section 42-340.3.)
- .22 An AFDC caretaker mother not referred to WIN who does not have good cause for refusal to apply for or accept a bona fide offer of employment as defined in Sections 30-155.5 and 30-157 renders her family ineligible for aid. (See Section 44-103.24.)
- .23 An AFDC youth, aged 16 through 20, not in school and not referred to WIN, who does not have good cause for refusal to apply for or accept a bona fide offer of employment or training, renders himself ineligible for inclusion in the assistance grant. (See Section 30-155.7 and Section 44-103.24.)

30-162 PERSONS APPROPRIATE FOR REFERRAL TO WORK INCENTIVE PROGRAM
(Continued)

30-162

AFDC

.1 AFDC Unemployed Fathers (Federally Eligible)

All federally eligible AFDC-U fathers not excluded under Section 30-163 shall be referred to WIN within 5 working days after determination of eligibility.

30-167 EFFECT OF WIN ON ELIGIBILITY FOR PUBLIC SOCIAL SERVICES

30-167

AFDC

- .1 Assignment by WIN for work of more than the number of hours specified in Section 42-340.1 which has a training component shall not be cause for denial or discontinuance of AFDC.

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Effective 7/1/71

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

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JUN 9 - 1971

Office of Administrative Procedure

ENDORSED

APPROVED FOR FILING
GOV. CODE 11380.1

JUN 9 - 1971

Office of Administrative Procedure

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

STATE DEPARTMENT OF SOCIAL WELFARE

(Agency)

Dated: June 9, 1971

By: 

Director

(Title)

FILED

In the office of the Secretary of State
of the State of California

JUN 9 - 1971

At 1:45 o'clock P.M.

EDMUND G. BROWNE, Secretary of State

By: 
Deputy Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

FINDING OF EMERGENCY

The following regulations are emergency measures necessary for the immediate preservation of the public health, safety and general welfare within the meaning of the provisions of Section 11421(b) of the Government Code:

Division 22, Sections 22-001 through 22-067

The following facts constitute the emergency:

- On June 22, 1970, the United States District Court for the Northern District of California in the case of Wheeler v. Montgomery ordered defendant Robert Martin et al., as Director of the State Department of Social Welfare, to present to the court for approval, procedures and regulations conforming to Goldberg v. Kelly.

The United States District Court in Wheeler further ordered that public assistance may not be terminated, suspended, revoked or withheld without following procedures conforming to Goldberg v. Kelly, until further order of the court.

- On April 14, 1971, 45 CFR 205.10 became effective. These Federal regulations created a whole new process regarding the subject of welfare fair hearings, which greatly conflicted with existing State regulations on that subject.

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CONTINUATION SHEET
FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

3. The regulation revisions described above provide elements required for the court's approval.
4. The immediate promulgation of these revised regulations is required for the protection of public funds as, until such regulations are promulgated and approved by the court, public assistance benefits must be paid to recipients otherwise ineligible to receive them.
5. Failure to adopt these revised regulations would also constitute a failure to comply with the law as interpreted by the United States District Court and with the regulations adopted by the United States Department of Health, Education and Welfare.
6. Therefore, the failure to adopt these regulations on an emergency basis would necessarily be contrary to the health, safety and general welfare of the people of this state.

Adoption of the above-described regulations is required effective immediately upon filing with the Secretary of State.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

DIVISION 22 FAIR HEARING

CHAPTER 22-000 FAIR HEARING - GENERAL

22-000

These regulations are not intended to limit or interfere with a claimant's right to request a fair hearing, and emphasis must be on helping the claimant to submit and process that request, and in preparing his case, if needed.

22-001 DEFINITIONS - FAIR HEARING

22-001

.1 Fair hearing is an administrative procedure established pursuant to Federal Regulations (45 CFR 205.10) and to Sections 10950 through 10965, Welfare and Institutions Code of California, providing a dissatisfied claimant an opportunity to present his case directly to the State Department of Social Welfare for formal decision.

A claimant may be dissatisfied because of:

- .11 Action or inaction on the part of the county welfare department relating to his application for or receipt of aid or services;
- .12 Unreasonable delay by the county department in acting upon his application for aid or services;
- .13 Refusal of the opportunity to submit a signed application for aid or services;
- .14 Agency policy as it affects his situation;
- .15 A denial of his claim for financial or medical assistance;
- .16 Any action affecting the receipt, suspension, reduction or termination of his assistance.

- .2 A request for a fair hearing is any clear written expression from a claimant, or his duly authorized representative, filed at the Office of the Chief Referee, that he wants the Department to take action concerning his expressed reasons for dissatisfaction.**

Effective 6/9/71

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WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

22-001 DEFINITIONS - FAIR HEARING (Continued)

22-001

- .3 The filing date of the claimant's request for a fair hearing is the date he mails, or otherwise submits such request to the Office of the Chief Referee.
- .4 Claimant is a person who has requested a fair hearing and is either:
- .41 An applicant for aid or services;
 - .42 A recipient of aid or services;
 - .43 A representative or heir of a deceased applicant or recipient;
 - .44 An adult child of an OAS applicant or recipient who has been determined to be liable for the full or partial support of a parent;
 - .45 The representative or heir of an adult child of an OAS applicant or recipient who has been determined to be liable for the full or partial support of a parent.
- .5 Authorized representative is an individual, including an attorney at law, who has been authorized in writing by the claimant or is authorized in person by the claimant at the hearing to act for and represent him any and all aspects of the fair hearing. The written authorization is any statement addressed to the Chief Referee, signed by the claimant, which names the individual authorized to act for him. The claimant need not designate an authorized representative, and may represent himself at all stages of the fair hearing process.
- .6 Referee is a person designated by the Director, State Department of Social Welfare, and thereafter assigned by the Chief Referee to conduct fair hearings and prepare proposed decisions.
- .7 Chief Referee is the person designated and employed by the Director, State Department of Social Welfare.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

22-003 RIGHT TO FAIR HEARING

22-003

.1 The claimant may first seek corrective or other appropriate action from his county's welfare agency before filing his request for a fair hearing with the Chief Referee. A dissatisfied claimant, however, is not required to seek that action before filing his request for a fair hearing.

.11 Requests for Review

The claimant may request a review of any county action by the State Department of Social Welfare without requesting a fair hearing. If the claimant remains unsatisfied after that review is completed, he may request a fair hearing subject to the statutory limitation for filing such requests for fair hearing.

.12 Upon receipt of a request for fair hearing, it shall be sent immediately to the Chief Referee for review and evaluation.

.121 The Chief Referee shall determine if the request is in fact one for a fair hearing, and shall also determine if the issue raised by the claimant is one requiring the payment of aid pending disposition of the matter by fair hearing decision.

.122 The Chief Referee shall inform the claimant of the receipt of the request for a fair hearing, and shall at the same time request the appropriate county agency to submit its basis of action letter in accordance with the provisions of Section 22-023 of these regulations.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
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(Pursuant to Government Code Section 11380.1)

22-003 RIGHT TO FAIR HEARING (Continued)

22-003

.13 Claimant Dies After Request for Fair Hearing

If a claimant dies after a request for a fair hearing has been filed by him, and before the decision of the Director of the Department of Social Welfare has been rendered in the case, the proceedings begun may be continued on behalf of the claimant's estate, or by an heir of the claimant if a legal representative has not been duly appointed.

.14 Request for Fair Hearing After Death of Claimant

If dissatisfied claimant dies before he can file his request for a fair hearing, the duly appointed representative of the claimant's estate, or any heir of the claimant if no representative has been appointed, may file such request when the claimant was dissatisfied with the denial of his application for assistance, or was dissatisfied with the amount of the assistance he was receiving prior to his death.

22-005 WITHDRAWAL OF REQUEST FOR A FAIR HEARING BEFORE DECISION

22-005

- DO NOT WRITE IN THIS SPACE
- .1 The claimant may withdraw his request for fair hearing at any time before a decision is made by the Director, State Department of Social Welfare.
- .2 In cases where there appears to be a possibility for corrective action without further fair hearing proceedings, the claimant may file a conditional withdrawal of his request for a fair hearing. Such conditional withdrawal will not prohibit the claimant from filing a new request for a fair hearing if he remains dissatisfied with any such corrective action. No hearing shall be delayed or cancelled because of this possibility unless the claimant consents to such delay.

Effective 6/9/71

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(Pursuant to Government Code Section 11380.1)

22-005 WITHDRAWAL OF REQUEST FOR A FAIR HEARING BEFORE DECISION
(Continued)

22-005

- .3 The county agency shall provide the claimant with all information and assistance regarding this withdrawal procedure.

22-007 CLAIMANT RESPONSIBILITY

22-007

.1 Form of Request for Fair Hearing

The claimant shall request a fair hearing in writing, but that request need not be in any particular form. The county agency shall assist the claimant in filing his request for a fair hearing with the Chief Referee. A printed form provided by the State Department for such request may be given the claimant by the county agency upon his request for such action.

- .2 For the purpose of prompt action, the claimant shall be informed by the county agency that his request for a fair hearing should identify the aid program involved as well as the reason for his dissatisfaction with the particular action involved in the case.

22-009 TIME LIMIT ON REQUESTS FOR FAIR HEARING

22-009

- .1 The request for fair hearing must be filed within one year after the order or action with which the claimant is dissatisfied.
- .2 The date of the order or action on which the request for a fair hearing is based shall be the date on which notice of such order or action was mailed to the claimant with the following exceptions:
- .11 Where requests for a fair hearing concern the return of erroneous repayments the date of collection or the date of the last installment payment is the determining date.
- .12 Where requests for a fair hearing concern the amount of the grant, the request must be filed within one year, but the period of review will extend back to the first day of the month in which the first day of the one-year period occurred.
- .13 If the last day of the one-year period falls on a Saturday, Sunday or holiday, the request for a fair hearing may be filed on the next business day.

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(Pursuant to Government Code Section 11380.1)

CHAPTER 22-020 COUNTY WELFARE AGENCY RESPONSIBILITY

22-020

22-021 EXPLANATION OF RIGHT TO FAIR HEARING

22-021

- .1 The county agency must explain the right to request a fair hearing, as well as the right to be represented and assisted by persons of his own choosing, including legal counsel and an interpreter, to every applicant at the time of his application for assistance, and to an adult child liable for contributions at the time of any application which may result in such liability, and thereafter at any time when further county action respecting aid or services is taken. Such explanation shall be given in such manner as to be fully understood by the claimant.
- .2 Written notice of the right to a fair hearing shall be included in every notification to the applicant or recipient of the granting, denial, decrease, discontinuance, suspension or increase in aid, or request for repayment, and to an adult child when the determination is made that he is liable for contributions or where there is a change in a prior county determination regarding aid. Such notice shall be in such form and in such language understandable to the person receiving such notification.
- .3 The county agency must help, and assist in any way required, the claimant to submit and process his request for a fair hearing, and in preparing his case if such help is requested.

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(Pursuant to Government Code Section 11380.1)

22-022 ASSISTANCE PENDING HEARING

22-022

- .1 Where the county action would result in a termination, suspension or reduction of an assistance grant, the county must mail to the person affected, at least fifteen days prior to the effective date of that action, a written notice which will include:
- .11 Explanation of the type of proposed action;
 - .12 Explanation of the reason for the proposed action; and the state regulatory or statutory basis **relied upon**;
 - .13 An explanation of the person's right to a conference, his right to request a Fair Hearing, and the circumstances under which assistance will be continued if a Fair Hearing is requested.
- .2 If, within the fifteen day period, the person affected indicates his wish for a conference, he or his authorized representative, will be given an opportunity by the county to discuss the problems, and will be given an explanation of the reasons for the proposed action, and will be permitted to show that the proposed action is incorrect.
- .21 During this conference, the person affected, will be permitted to speak for himself or be represented by legal counsel or by a friend or other spokesman.
 - .22 The conference will not in any way diminish the person's right to a fair hearing.
- .3 Where the person affected has filed his request for a fair hearing within the fifteen day period, the assistance will be continued, without change, until the fair hearing decision is rendered, unless prior thereto the Office of the Chief Referee, State Department of Social Welfare, determines that the issue involved in the fair hearing request is one of state policy and not one of fact or judgment in the individual case, including a question of whether State rules were correctly applied by the county to the facts of the case.

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(Pursuant to Government Code Section 11380.1)

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE FAIR HEARING 22-023

.1 Preliminary Review

- .11 On receipt of the notification from the Office of the Chief Referee, that a request for a fair hearing has been filed with that office, the county shall review the case. Such review will be conducted by a person who was not involved in making the original decision giving rise to the request for fair hearing. That person **should have the authority from the county agency's director to** make an independent adjustment of the matter without consultation or approval of any other county staff member, and must take such action to adjust the matter when appropriate, without undue delay.

The county agency shall notify the Office of the Chief Referee immediately of any such adjustment action it may take in the matter.

- .12 The county agency director, or the person specifically appointed by him, shall be responsible for the county action connected with each fair hearing request to insure full compliance with these regulations. Unnecessary hearings shall be eliminated whenever possible without depriving any claimant of his right to a fair hearing.
- .13 The county shall give special attention to discover:
- .131 Failures of communication between the claimant and the agency.
 - .132 Erroneous application of the law or regulations to the particular case.
 - .133 Instances of incomplete casework.

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(Pursuant to Government Code Section 11380.1)

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE FAIR HEARING
(Continued)

22-023

.14 Prior to its preparation of the Basis of Action as described below, the county agency shall complete an independent and impartial review of, and shall adjust, the matter if such action appears proper. Any adjustment action shall be immediately communicated to the Office of the Chief Referee.

.2 The Basis of Action

.21 Within six calendar days after the receipt of notification that a fair hearing has been requested, the county agency shall send to the claimant and to the Office of the Chief Referee, copies of a summary entitled "Basis of Action," which shall first be reviewed by its director, or his designee, (See Section 22-023.1.12) and which must contain:

- .211 A statement of the county agency action or actions on which the claimant's request is based, including the date of the action.
- .212 A clear and understandable statement in nontechnical language of the specific reasons for the county action and of the facts which support that action.
- .213 Where appropriate, citations of any statutory and regulatory authority used by the county to support its action.
- .214 A notification stating whether, within the knowledge of the county, that an interpreter will be necessary to assist the claimant in presenting his case, and whether the county will provide one.

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(Pursuant to Government Code Section 11380.1)

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE FAIR HEARING 22-023
(Continued)

- .22 If, prior to the hearing, the county agency determines that the claimant's eligibility is in question for some other reason than that stated in its Basis of Action, it shall send to the claimant and to the Office of the Chief Referee, a brief and clear supplement to that Basis of Action of the additional reason or reasons so that if necessary they may be considered at the hearing.
- .23 The Office of the Chief Referee, shall advise the county agency of any deficiency in its Basis of Action summary, and shall require the county agency to correct that deficiency immediately.
- .3 Preparation for the Hearing - Prior to the fair hearing, the county welfare department may:
- .31 Hold a final interview between the county welfare director or other person to whom he has delegated the responsibility for the fair hearing, with the claimant to assure
- .311 that there is no misunderstanding, circumstance, or question that might be cleared to his satisfaction so as to eliminate the necessity of the hearing;
- .312 that the claimant clearly understands the basis of action and desires a hearing;

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(Pursuant to Government Code Section 11380.1)

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE FAIR HEARING 22-023
(Continued)

.313 In cases in which the sole issue is degree of blindness or degree of disability, the final interview may be omitted in the discretion of the county if:

- a. There have been no developments such as receipt of additional medical reports not previously reviewed by the State Medical Review Team or changes in the living arrangements of the claimant since the filing of the request for hearing that should be discussed;
- b. On the basis of the specific case record, a further interview appears to be a useless act.

.32 Review the applicable State law, regulations and policies in light of the evidence. When assistance of the State Department of Social Welfare is required to clarify any question, such assistance shall be sought without delay.

.33 Organize all oral and written evidence and plan for its presentation at the hearing to avoid unnecessary delay or duplication. Where county policy directives or instructions are involved in the matter, copies of those documents shall be presented at the hearing.

.34 Arrange for the attendance of all necessary witnesses and the availability of all documents for presentation of the county's case, including notification to the Chief Referee, of any communication problem possessed by the claimant.

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(Pursuant to Government Code Section 11380.1)

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE FAIR HEARING 22-023
(Continued)

.35 If the issue is:

.351 amount of aid:

.352 grant adjustment; or

.353 demand for repayment;

prepare a complete final budget computation, month by month, for the period subject to review, and up to the date of hearing.

.36 Continue to remain in touch with the claimant, and to report without delay to the Chief Referee of the State Department of Social Welfare any change in the circumstances of the applicant or recipient, or in his address, or in any other area which might affect the necessity for or conduct of the hearing. This responsibility continues after the hearing, and at least until a decision is rendered.

.37 Arrange to have present at the hearing a county welfare department representative with full authority to make binding agreements and stipulations on behalf of the county welfare department.

22-025 HEARING NOT HELD IN COUNTY RESPONSIBLE FOR AID

22-025

.1 If the hearing is to be held in a county other than the responsible county, the welfare department of the latter county may elect any of the following procedures:

.11 send a welfare department representative, with the case record, to the hearing; or

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(Pursuant to Government Code Section 11380.1)

22-025 HEARING NOT HELD IN COUNTY RESPONSIBLE FOR AID (Continued)

22-025

- .12 include in the Basis of Action all of the information in the county welfare department's possession regarding the point or points at issue, both supporting and opposing the county welfare department's action, together with relevant dates and any argument the county welfare department desires to make and conclude with the statement that the county welfare department rests its case on the Basis of Action; or
- .13 send the case record, containing all relevant information in the county welfare department's possession, to the welfare department of the county in which the claimant is living, with the request that the second county welfare department represent the responsible county at the hearing. Such request should be made in sufficient time to allow the second county welfare department to arrange such representation or notify the first county welfare department of its inability to act. The first county welfare department would then, necessarily, follow one of the other two procedures.

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(Pursuant to Government Code Section 11380.1)

22-026 GROUP HEARINGS

22-026

- .1 The Chief Referee may schedule a series of individual requests for fair hearing for a group hearing when the sole issue set forth in those requests is one involving an agency policy, as he may deem appropriate.
- .2 When the Chief Referee takes such action, each claimant shall be given the right to an individual hearing, if he so desires, and shall not be required to participate in any group hearing.
- .3 The Chief Referee shall grant all requests for a single hearing submitted to him by any group of claimants whose dissatisfaction is solely with an agency policy.
- .4 In all group hearings, each individual claimant shall be permitted to present his own case, and shall be permitted to be represented by any person he may desire.

22-027 COMPLIANCE WITH STATE DEPARTMENT OF SOCIAL WELFARE DECISIONS 22-027

- .1 Immediately upon receipt of notice of the decision (excepting decisions rendered in appeals by an adult child liable for contributions, (see Section 22-027.3) the county shall comply with the decision and shall notify the Office of the Chief Referee by completing a compliance form issued by the State Department of Social Welfare or shall request a rehearing. If the decision is in favor of the claimant on the issue involved, but aid has not been paid by the county, the notice to the State shall include a complete statement of the new issues which resulted in further denial of aid. Such statement shall be prepared in the same form and fashion as the Basis of Action letter.

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(Pursuant to Government Code Section 11380.1)

22-027 COMPLIANCE WITH STATE DEPARTMENT OF SOCIAL WELFARE DECISIONS 22-027
(Continued)

- .2 The office of the Chief Referee shall review the compliance statement to assure that the county has correctly complied with the decision.
- .3 Within 30 days after the mailing to the county welfare department and the adult child, of the decision in cases involving an adult child liable for contributions to a parent, and in the event the adult child has not complied with the decision, the county welfare department shall initiate, through the appropriate county officer or agency, the legal action that is necessary in order that the adult child shall comply with the decision within a reasonable period of time.

22-040 STATE DEPARTMENT OF SOCIAL WELFARE RESPONSIBILITY 22-040

22-043 ACKNOWLEDGMENT OF REQUESTS FOR FAIR HEARING 22-043

- .1 A request for fair hearing filed with the Chief Referee shall be acknowledged by a written communication to the claimant and to the county welfare department.
- .2 The claimant shall also be provided with a brochure explaining the fair hearing process.

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(Pursuant to Government Code Section 11380.1)

22-045 SETTING THE HEARING

22-045

- .1 Place of Hearing - The place of hearing may be the county seat of the county in which the claimant is living at the time of the hearing, unless the county seat is unsuitable due to the health of the claimant, transportation problems, convenience of witnesses or other causes, but the place of hearing shall be convenient to claimant. The hearing may be held in the claimant's home if he is unable to leave the home.
- .2 Notification - The Office of the Chief Referee shall mail or deliver to the claimant and his authorized representative, if any, and the county a written notice of the time and place of the hearing not less than 10 days prior to the hearing.

22-047 HEARING CONDUCTED BY THE STATE DEPARTMENT OF SOCIAL WELFARE

22-047

All hearings shall be conducted by the referee unless the Director orders that it shall be conducted by himself or by the Chief of the Legal Office of the department in behalf of the Director.

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(Pursuant to Government Code Section 11380.1)

22-049 THE HEARING - GENERAL RULES AND PROCEDURE

22-049

- .1 Attendance at a hearing shall be limited to those directly concerned, namely, the claimant and his representative, interpreter if any and witnesses; representatives of the county welfare department; the State Department of Social Welfare representatives and the referee. The referee, or other person conducting the hearing, shall exclude unauthorized persons from the hearing unless both principals agree to their presence. Appearance by the claimant (in person or by representative) is required at the hearing. County welfare department representation is also required. (See Section 22-025, Hearing Not Held in County Responsible for Aid.)
- .2 The hearing shall be conducted in an impartial manner. All testimony shall be submitted under oath or affirmation.
- .3 The proceedings at the hearing shall be reported by a phonographic reporter or otherwise perpetuated by mechanical, electronic, or other means capable of reproduction or transcription.
- .4 The referee shall not be bound by the rules of procedure or evidence applicable in courts.
- .5 The claimant or his authorized representative shall, upon request, be given the opportunity to examine at any time before and during the hearing, all evidence used by the county welfare department to support its decision and all documentary evidence that will be used at the hearing.
- .6 At the request of the claimant or the county welfare department or on the initiative of the State Department of Social Welfare, subpoenas may be issued requiring the presence of witnesses or the production of documents at the hearing. The party requesting the subpoena is responsible for service and fees.
- .7 An interpreter shall be provided by the state if the referee considers this necessary.

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(Pursuant to Government Code Section 11380.1)

22-051 CLAIMANT LIVING OUTSIDE OF CALIFORNIA

22-051

- .1 When a request for fair hearing is received from a person living outside of the state, it shall be acknowledged and reported in the same manner as other requests for fair hearing. Unless the claimant voluntarily offers to return to California for the hearing or authorizes a representative in California, the county welfare department shall be advised that the hearing will be processed by questionnaire.
- .2 A questionnaire consists of a written series of questions to be answered by claimant in writing and sworn to before a notary. The completed questionnaire properly attested and submitted shall constitute his appearance and testimony in the hearing. The questions to be included in the questionnaire are to be prepared jointly by the county welfare department and the State Department of Social Welfare. It shall be the responsibility of the State Department of Social Welfare to initiate discussion with the county welfare department regarding preparation of the questions to be included. The county welfare department shall submit the questions it wants answered.
- .3 To meet statutory requirements for fair hearings, the questionnaire should be in the hands of the claimant on or before the 45th day after the request for fair hearing is filed.

22-053 CONTINUANCE FOR ADDITIONAL EVIDENCE

22-053

- .1 If, after a hearing has begun, the referee conducting the hearing determines that additional evidence not available at the hearing is necessary for the proper determination of the case, he may in his discretion:
- .11 Continue the hearing to a later date. In connection therewith, he may order further investigation and may direct either party to produce the additional evidence.

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(Pursuant to Government Code Section 11380.1)

22-053 CONTINUANCE FOR ADDITIONAL EVIDENCE (Continued)

22-053

- .12 Close the hearing and hold the record open for a period not to exceed seven calendar days in order to permit the reception of additional documentary evidence. Any material submitted after the close of the hearing shall be made available both to the county welfare department and to the claimant and each shall have the opportunity for rebuttal. The referee conducting the hearing may order a further hearing if the nature of the additional information or the refutation thereof makes a further hearing desirable.

22-054 ADDITIONAL MEDICAL EVIDENCE

22-054

When the hearing involves medical issues, a medical assessment other than that of the person or persons involved in making the original medical assessment will be obtained by the county from a source satisfactory to the claimant and will be made part of the record if the referee or claimant considers it necessary.

22-055 WITHDRAWAL OR ABANDONMENT

22-055

- .1 A request for a fair hearing shall not be dismissed without hearing unless the claimant either withdraws or abandons the request.
- .2 A withdrawal occurs when the Chief Referee is notified by the claimant that he no longer wishes a hearing.
- .3 An abandonment occurs when:
- .31 The claimant fails to appear at the hearing without good cause.
- .32 The claimant cannot be located through his last address of record anytime after his request for fair hearing is received.

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(Pursuant to Government Code Section 11380.1)

22-056 DISPOSITION OF FAIR HEARING MATTERS

22-056

- .1 All fair hearing matters will be set for hearing, heard, and disposed of by fair hearing decision within 60 days from the date of the request for fair hearing, except in those cases where the claimant withdraws or abandons his request for hearing, or the matter is continued for good cause. This overall 60 day time limit shall be extended only for the period of the continuance.

22-057 SUBMISSION OF PROPOSED DECISION

22-057

- .1 After the hearing has been closed, the referee shall issue his proposed decision for review by the Chief Referee and submission to the Director, State Department of Social Welfare.

22-059 DECISION BY DIRECTOR OF THE STATE DEPARTMENT OF SOCIAL WELFARE 22-059

- .1 The Director of the State Department of Social Welfare, after receiving the proposed decision, may:
- .11 Adopt the decision in its entirety;
 - .12 Decide the matter himself on the record, including the transcript, with or without taking additional evidence;
 - .13 Order another hearing to be conducted by himself, the Chief of the Legal Office, or another referee, if overall time limitations for disposition of fair hearing matters so permit.
- .2 The decision of the Director of the State Department of Social Welfare shall be in writing. It shall include a statement of the facts and of the statutes and regulations involved and of the reasoning which supports the decision.
- .3 No decision shall remand the case to the county welfare department for further consideration of the issues involved.

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(Pursuant to Government Code Section 11380.1)

22-059 DECISION BY DIRECTOR OF THE STATE DEPARTMENT OF SOCIAL WELFARE 22-059
(Continued)

- .4 The decision shall determine only those circumstances and issues involved in the period up to the date of the close of the proceedings before the referee and is not applicable to periods after that date where there has been a change in the circumstances involved in the decision.

22-061 NOTICE OF DECISION

22-061

- .1 After the referee's proposed decision is adopted, or an alternate decision is rendered by the Director, the Office of the Chief Referee shall mail a copy to the claimant, and the county welfare director. The notice of decision shall also contain a statement explaining the right to request rehearing.
- .2 If the Director decides the matter and his decision differs materially from the proposed decision, a copy of the proposed decision shall also be mailed to the claimant, and the county welfare director.

22-063 PRESERVATION OF RECORD

22-063

- .1 The verbatim record of the testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, and the referee's proposed decision shall constitute the exclusive record for decision and shall be available to the claimant and the county at any reasonable time for one year after the date of the Director's decision in the case.

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(Pursuant to Government Code Section 11380.1)

22-065 REHEARING

22-065

- .1 A request for rehearing must be filed in writing with the Office of the Chief Referee within 30 days after adoption by the Director or the issuance by the Director of his own decision and must contain a statement of reasons therefore.
- .2 If the request for rehearing is to permit presentation of additional evidence, the request shall:
- .21 Describe the additional evidence;
 - .22 Show why it was not previously introduced;
 - .23 Explain its materiality.
- .3 The Director shall grant or deny the request within fifteen working days after it is filed with the Chief Referee.
- .4 If a request for a rehearing is granted, the Director may:
- .41 Order reconsideration of the decision on the basis of the evidence in the record;
 - .42 Order the taking of additional evidence;
 - .43 Order an entire new hearing.
- .5 A decision issued upon a rehearing shall not be subject to further hearing
- .6 When a request for rehearing is denied, the notice of denial shall contain a statement concerning the right to judicial review, and shall advise the client that, if the court decides the case in his favor, he will be entitled to reasonable attorney's fees and the cost of suit.

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(Pursuant to Government Code Section 11380.1)

22-067 STIPULATED DECISIONS

22-067

- .1 Stipulated decisions are decisions in which the county welfare department involved cannot adjust by administrative action alone. When the county welfare department determines that adjustment is possible but cannot be effected without department concurrence, the claimant is asked to sign a conditional withdrawal (Form Gen M 29A, Conditional Withdrawal of Appeal). The county welfare department then presents the facts to the State Department of Social Welfare by letter and requests concurrence in the recommended adjustment. If the State Department of Social Welfare concurs, the county welfare department is authorized to make the adjustment. (In degree of blindness appeals this process is reversed--i.e., the State Department of Social Welfare notifies the county welfare department of the result of the eye examinations and recommends adjustment, if the county agrees.)
- .2 If the adjustment is not satisfactory to the claimant, he may file a new request, reactivating his original request within 60 days of the county welfare department's notification.

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DEPARTMENT OF SOCIAL WELFARE

744 P STREET
SACRAMENTO 95814

RECEIVED FOR FILING

AUG 9 - 1971

Office of Administrative Procedure

In the Matter of an Experiment with
respect to the AFDC Budget and
Payment Methods in Stanislaus County

FILED
In the office of the Secretary of State
of the State of CaliforniaAUG 9 - 1971 *gm*
At 2:00 o'clock P. M.
EDMUND S. BROWN, Jr., Secretary of State
By *[Signature]*
Deputy Secretary of State

ORDER

I

With the approval of the United States Department of Health, Education, and Welfare for a waiver of federal plan requirements received under the provisions of Section 1115 of the Social Security Act, the State Department of Social Welfare proposes to conduct an experimental project, in and jointly with Stanislaus County, to develop and determine the feasibility of a modified system for computing AFDC assistance grants on the basis of a point-in-time determination, utilizing a monthly declaration of eligibility and facts relevant to the computation of AFDC entitlement, and providing for delivery of grant payments on a cyclical basis. The goals of the project are (1) to effect savings in assistance expenditures by eliminating unadjustable overpayments, (2) to minimize hardships to recipient families by assuring delivery of warrants on scheduled dates and by eliminating need to issue supplemental warrants to correct underpayments, and (3) to effect savings in administrative costs by reducing the number of eligibility workers required to redetermine ongoing eligibility, by reducing the overall average number of assistance warrants issued to the AFDC caseload, and by eliminating inefficiencies and potential for error by balancing the workload of the staff and facilities of the county used to process AFDC payments.

II

In order to conduct and administer the experimental project, it is necessary to waive the enforcement of certain laws and regulations governing the AFDC program for the period to begin on August 13, 1971 and to end on or before July 31, 1972.

Effective August 13, 1971

III

For the purpose of this project and pursuant to Section 18204 of the Welfare and Institutions Code, I hereby waive the operation of the following laws, regulations, policies, and procedures effective August 13, 1971, but only in the manner and to the degree required by the nature of the experiment:

STATUTES W&I CODE

- 11004(c) This statute which states that "Any person who makes full and complete disclosure of those facts as explained to him pursuant to subdivision (a) is entitled to rely upon the award of aid as being accurate, and that the warrant he receives correctly reflects the award made, except that the county paying the aid shall be allowed a period of two months following the month of payment within which to adjust any errors or changes in amount of grant resulting from changes in income or need which occur too late to be reflected in the grant for the current month. Whenever possible, adjustments or overpayments shall be pro-rated evenly over the two months adjustment period" is modified to permit the county in the AFDC program to effect correction in the amount of expected income for one payment cycle equal to the difference between expected and actual income during the preceding payment cycle.
- 11006.2 This statute which provides, in substance, that when payment is made bimonthly one public assistance warrant shall be placed in the mail to be received not later than the 15th of the month (or earlier if there is no postal delivery on such date) and the other shall be placed in the mail to be received not later than the first of the following month, is modified to permit the second warrant to be delivered after the first of the following month.
- 11009.1 This statute which states "The value of free board and lodging supplied to a recipient during a temporary absence from his home of not more than one month, shall be considered an inconsequential resource and shall not be deducted from the amount of aid to which the recipient is otherwise entitled. After an absence of one month, free board and lodging shall be considered income to the extent the value exceeds the continuing cost to the recipient of maintaining the home to which he expects to return" is modified for the AFDC program to substitute "thirty days" for the words "one month".
- 11056 This statute which states in part "If the applicant is determined to be eligible, aid shall be granted from the first day of the month following the date of application, or from the first day of the month following the date on which he becomes eligible if found to be later than the date of application," is modified to permit the granting of AFDC from the day the second warrant after the date of request is due to be delivered according to the applicant's payment cycle.

Effective August 13, 1971

STATUTES W&I CODE

- 11209 This statute which states in part "The department shall: (a) make rules and regulations for the proper maintenance and care of needy children; (b) make rules and regulations for the administration of aid to families with dependent children. Such rules and regulations shall be binding upon the institutions and counties" is modified to permit Stanislaus County, with prior approval of the department, to administer the experimental AFDC budget and payment method.
- 11265 This statute which provides in part for specific information to be included on the certificate of eligibility used for redetermination of eligibility, and in part for a home visit to be made to the family if the certificate is not completed and returned within 10 days after it is delivered, is modified to permit the use of a monthly declaration without inclusion of all the specified information and to permit, in lieu of the required home visit, the use of procedures for suspending and terminating aid payments, following advance notice to the family, when the monthly declaration of eligibility is not received within a grace period following the specified report date.
- 11401 This statute which states "No child shall receive aid under this chapter while he is a patient in a public hospital, except with respect to temporary medical or surgical care not exceeding two calendar months, in which event the child shall be eligible to receive not to exceed two monthly warrants after becoming a patient" is modified to permit entitlement and issuance of AFDC warrants to continue for two monthly payment cycles.
- 11455 This statute which states "If on the first day of the month a child is eligible for aid, aid for the entire month shall be paid" is modified to permit entitlement to be established as of a specified date according to the recipient's payment cycle, and for aid to be terminated when eligibility ceases, subject to federal requirements for providing advance notice.
- 11457 This statute which states, in part "All absent parents' payments or collections available to the county department for support of the child shall be applied first to support for the calendar month following receipt by the county department, and any balance remaining shall either be applied against future needs or be treated as reimbursement for past support furnished from public assistance funds" is modified to permit such payments or collections to be applied to support for the payment cycle following receipt by the county department.

Effective August 13, 1971

REGULATIONS, POLICIES AND PROCEDURES

All AFDC regulations, policies and procedures including but not limited to the following are modified with respect to the specification of calendar months and as hereinafter provided:

CHAPTER 23-400 FORMS MANAGEMENT

Regulations are modified to allow substitution of experimental forms as substitutes for those otherwise required for the AFDC program.

CHAPTER 25-300 AID PAYMENTS

CHAPTER 25-700 AID CLAIMS

Regulations and fiscal handbook policies and procedures are modified to allow for conversion of payments to the experimental method, for issuance of payments on a cyclical basis, and as otherwise required by the experimental system.

CHAPTER 28-000 WELFARE AUTOMATIC DATA PROCESSING

Requirements are modified to allow adjustments in the data processing program and system to be made without prior approval as required during the implementation and operation of the experimental budget and payment method.

CHAPTER 30-150 EMPLOYMENT AND REHABILITATION SERVICES

Regulations are modified with respect to the specification of monthly periods and as otherwise required by the experimental system.

CHAPTER 40-100 DETERMINATION OF ELIGIBILITY

AFDC regulations are modified with respect to determination and payment of immediate need, notifications to applicants and recipients, redetermination of eligibility and as otherwise required by the experimental system.

CHAPTER 41-300 PROPERTY

AFDC regulations are modified with respect to the specification of monthly periods and as otherwise required by the experimental system.

CHAPTER 42-300 DEPRIVATION

AFDC regulations are modified with respect to the specification of monthly periods and as otherwise required by the experimental system.

CHAPTER 42-600 INSTITUTIONAL STATUS

AFDC regulations are modified with respect to the dates on which eligibility begins or ceases and as otherwise required by the experimental system.

Effective August 13, 1971

CHAPTER 44-100 INCOME

AFDC regulations are modified with respect to the periods for which income is to be considered and methods used in determining the AFDC entitlement and as otherwise required by the experimental system.

CHAPTER 44-200 NEED

AFDC regulations are modified with respect to the methods for determining minimum and special needs and as otherwise required by the experimental system.

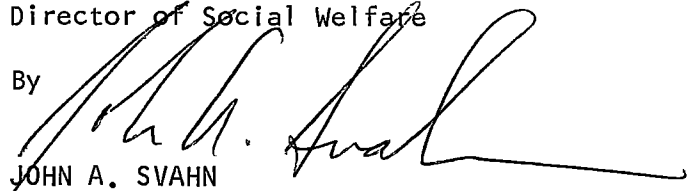
CHAPTER 44-300 AID PAYMENTS

AFDC regulations are modified with respect to delivery of payments, methods for determining the amount and the beginning date of aid, treatment of changes that affect the amount of payment, and as otherwise required by the experimental system.

There will be no net additional State funds involved as a result of this project.

ROBERT B. CARLESON
Director of Social Welfare

By


JOHN A. SVAHN
Deputy Director

DATE: August 9, 1971

Effective August 13, 1971

LEGAL NOTICE

PROPOSED DEMONSTRATION PROJECT FOR AN EXPERIMENT WITH RESPECT TO THE AFDC BUDGET AND PAYMENT METHODS IN STANISLAUS COUNTY

With the approval of the United States Department of Health, Education, and Welfare for a waiver of federal plan requirements received under the provisions of Section 1115 of the Social Security Act, the State Department of Social Welfare proposes to conduct an experimental project, in and jointly with Stanislaus County, to develop and determine the feasibility of a modified system for computing AFDC assistance grants on the basis of a point-in-time determination, utilizing a monthly declaration of eligibility and facts relevant to the computation of AFDC entitlement, and providing for delivery of grant payments on a cyclical basis. The goals of the project are (1) to effect savings in assistance expenditures by eliminating unadjustable overpayments, (2) to minimize hardships to recipient families by assuring delivery of warrants on scheduled dates and by eliminating need to issue supplemental warrants to correct underpayments, and (3) to effect savings in administrative costs by reducing the number of eligibility workers required to redetermine ongoing eligibility, by reducing the overall average number of assistance warrants issued to the AFDC caseload, and by eliminating inefficiencies and potential for error by balancing the workload of the staff and facilities of the county used to process AFDC payments.

In order to conduct and administer the experimental project, it is necessary to waive the enforcement of certain laws and regulations governing the AFDC program for the period to begin on August 13, 1971 and to end on or before July 31, 1972.

For the purpose of this project and pursuant to Section 18204 of the Welfare and Institutions Code, I hereby waive the operation of the following laws, regulations, policies, and procedures effective August 13, 1971, but only in the manner and to the degree required by the nature of the experiment:

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- 11006.2 This statute which provides, in substance, that when payment is made bimonthly one public assistance warrant shall be placed in the mail to be received not later than the 15th of the month (or earlier if there is no postal delivery on such date) and the other shall be placed in the mail to be received not later than the first of the following month, is modified to permit the second warrant to be delivered after the first of the following month.
- 11009.1 This statute which states "The value of free board and lodging supplied to a recipient during a temporary absence from his home of not more than one month, shall be considered an inconsequential resource and shall not be deducted from the amount of aid to which the recipient is otherwise entitled. After an absence of one month, free board and lodging shall be considered income to the extent the value exceeds the continuing cost to the recipient of maintaining the home to which he expects to return" is modified for the AFDC program to substitute "thirty days" for the words "one month".
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- 11265 This statute which provides in part for specific information to be included on the certificate of eligibility used for redetermination of eligibility, and in part for a home visit to be made to the family if the certificate is not completed and returned within 10 days after it is delivered, is modified to permit the use of a monthly declaration without inclusion of all the specified information and to permit, in lieu of the required home visit, the use of procedures for suspending and terminating aid payments, following advance notice to the family, when the monthly declaration of eligibility is not received within a grace period following the specified report date.
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- 11455 This statute which states "If on the first day of the month a child is eligible for aid, aid for the entire month shall be paid" is modified to permit entitlement to be established as of a specified date according to the recipient's payment cycle, and for aid to be terminated when eligibility ceases, subject to federal requirements for providing advance notice.
- 11457 This statute which states, in part "All absent parents' payments or collections available to the county department for support of the child shall be applied first to support for the calendar month following receipt by the county department, and any balance remaining shall either be applied against future needs or be treated as reimbursement for past support furnished from public assistance funds" is modified to permit such payments or collections to be applied to support for the payment cycle following receipt by the county department.

REGULATIONS, POLICIES AND PROCEDURES

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AFDC regulations are modified with respect to the dates on which eligibility begins or ceases and as otherwise required by the experimental system.

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AFDC regulations are modified with respect to the methods for determining minimum and special needs and as otherwise required by the experimental system.

CHAPTER 44-300 AID PAYMENTS

AFDC regulations are modified with respect to delivery of payments, methods for determining the amount and the beginning date of aid, treatment of changes that affect the amount of payment, and as otherwise required by the experimental system.

There will be no net additional State funds involved as a result of this project.

ROBERT B. CARLESON
Director of Social Welfare

By

JOHN A. SVAHN
Deputy Director

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

RECEIVED FOR FILING

SEP 3 - 1971

Office of Administrative Procedure

ENDORSED

APPROVED FOR FILING
 (GOV. CODE 11380.1)

SEP 3 - 1971

Office of Administrative Procedure

DO NOT WRITE IN THIS SPACE

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

STATE DEPARTMENT OF SOCIAL WELFARE

(Agency)

Dated: September 3, 1971

By: 

Director

(Title)

FILED

In the office of the Secretary of State
 of the State of California

SEP 3 - 1971

At 3:05 o'clock P.M.

EDMUND G. BROWN, Jr., Secretary of State

By: 

Deputy Secretary of State

DO NOT WRITE IN THIS SPACE

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

FINDING OF EMERGENCY

The following regulations are emergency measures necessary for the immediate preservation of the public health, safety and general welfare within the meaning of the provisions of Section 11421(b) of the Government Code:

Division 22, Sections 22-001 through 22-067

The following facts constitute the emergency:

1. On June 22, 1970, the United States District Court for the Northern District of California in the case of Wheeler v. Montgomery ordered defendant Robert Martin et al., as Director of the State Department of Social Welfare, to present to the court for approval, procedures and regulations conforming to Goldberg v. Kelly.

The United States District Court in Wheeler further ordered that public assistance may not be terminated, suspended, revoked or withheld without following procedures conforming to Goldberg v. Kelly, until further order of the court.

2. On April 14, 1971, 45 CFR 205.10 became effective. These Federal regulations created a whole new process regarding the subject of welfare fair hearings, which greatly conflicted with existing State regulations on that subject.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

3. The regulation revisions described above provide elements required for the court's approval.
4. The immediate promulgation of these revised regulations is required for the protection of public funds as, until such regulations are promulgated and approved by the court, public assistance benefits must be paid to recipients otherwise ineligible to receive them.
5. Failure to adopt these revised regulations would also constitute a failure to comply with the law as interpreted by the United States District Court and with the regulations adopted by the United States Department of Health, Education and Welfare.
6. Therefore, the failure to adopt these regulations on an emergency basis would necessarily be contrary to the health, safety and general welfare of the people of this state.

Adoption of the above-described regulations is required effective immediately upon filing with the Secretary of State.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

DIVISION 22 FAIR HEARING

CHAPTER 22-000 FAIR HEARING - GENERAL

22-000

These regulations are not intended to limit or interfere with a claimant's right to request a fair hearing, and emphasis must be on helping the claimant to submit and process that request, and in preparing his case, if needed.

22-001 DEFINITIONS - FAIR HEARING

22-001

.1 Fair hearing is an administrative procedure established pursuant to Federal Regulations (45 CFR 205.10) and to Sections 10950 through 10965, Welfare and Institutions Code of California, providing a dissatisfied claimant an opportunity to present his case directly to the State Department of Social Welfare for formal decision.

A claimant may be dissatisfied because of:

- .11 Action or inaction on the part of the county welfare department relating to his application for or receipt of aid or services;
- .12 Unreasonable delay by the county department in acting upon his application for aid or services;
- .13 Refusal of the opportunity to submit a signed application for aid or services;
- .14 Agency policy as it affects his situation;
- .15 A denial of his claim for financial or medical assistance;
- .16 Any action affecting the receipt, suspension, reduction or termination of his assistance.

.2 A request for a fair hearing is any clear oral or written expression from a claimant, or his duly authorized representative, filed at the office of the Chief Referee, that he wants the Department to take action concerning his expressed reasons for dissatisfaction.

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Effective 9/3/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

22-001 DEFINITIONS - FAIR HEARING (Continued)

22-001

- .3 The filing date of the claimant's request for a fair hearing is the date he mails, or otherwise submits such request to the Office of the Chief Referee.
- .4 Claimant is a person who has requested a fair hearing and is either:
- .41 An applicant for aid or services;
 - .42 A recipient of aid or services;
 - .43 A representative or heir of a deceased applicant or recipient;
 - .44 An adult child of an OAS applicant or recipient who has been determined to be liable for the full or partial support of a parent;
 - .45 The representative or heir of an adult child of an OAS applicant or recipient who has been determined to be liable for the full or partial support of a parent.
- .5 Authorized representative is an individual, including an attorney at law, who has been authorized in writing by the claimant or is authorized in person by the claimant at the hearing to act for and represent him any and all aspects of the fair hearing. The written authorization is any statement addressed to the Chief Referee, signed by the claimant, which names the individual authorized to act for him. The claimant need not designate an authorized representative, and may represent himself at all stages of the fair hearing process.
- .6 Referee is a person designated by the Director, State Department of Social Welfare, and thereafter assigned by the Chief Referee to conduct fair hearings and prepare proposed decisions.
- .7 Chief Referee is the person designated and employed by the Director, State Department of Social Welfare.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

22-003 RIGHT TO FAIR HEARING

22-003

.1 The claimant may first seek corrective or other appropriate action from his county's welfare agency before filing his request for a fair hearing with the Chief Referee. A dissatisfied claimant, however, is not required to seek that action before filing his request for a fair hearing.

.11 Requests for Review

The claimant may request a review of any county action by the State Department of Social Welfare without requesting a fair hearing. If the claimant remains unsatisfied after that review is completed, he may request a fair hearing subject to the statutory limitation for filing such requests for fair hearing.

.12 Upon receipt of a request for fair hearing, it shall be sent immediately to the Chief Referee for review and evaluation.

.121 The Chief Referee shall determine if the request is in fact one for a fair hearing, and shall also determine if the issue raised by the claimant is one requiring the payment of aid pending disposition of the matter by fair hearing decision.

.122 The Chief Referee shall inform the claimant of the receipt of the request for a fair hearing, and shall at the same time request the appropriate county agency to submit its basis of action letter in accordance with the provisions of Section 22-023 of these regulations.

Effective 9/3/71

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

22-003 RIGHT TO FAIR HEARING (Continued)

22-003

.13 Claimant Dies After Request for Fair Hearing

If a claimant dies after a request for a fair hearing has been filed by him, and before the decision of the Director of the Department of Social Welfare has been rendered in the case, the proceedings begun may be continued on behalf of the claimant's estate, or by an heir of the claimant if a legal representative has not been duly appointed.

.14 Request for Fair Hearing After Death of Claimant

If dissatisfied claimant dies before he can file his request for a fair hearing, the duly appointed representative of the claimant's estate, or any heir of the claimant if no representative has been appointed, may file such request when the claimant was dissatisfied with the denial of his application for assistance, or was dissatisfied with the amount of the assistance he was receiving prior to his death.

22-005 WITHDRAWAL OF REQUEST FOR A FAIR HEARING BEFORE DECISION

22-005

- .1 The claimant may withdraw his request for fair hearing at any time before a decision is made by the Director, State Department of Social Welfare.
- .2 In cases where there appears to be a possibility for corrective action without further fair hearing proceedings, the claimant may file a conditional withdrawal of his request for a fair hearing. Such conditional withdrawal will not prohibit the claimant from filing a new request for a fair hearing if he remains dissatisfied with any such corrective action. No hearing shall be delayed or cancelled because of this possibility unless the claimant consents to such delay.

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CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

22-005 WITHDRAWAL OF REQUEST FOR A FAIR HEARING BEFORE DECISION
(Continued)

22-005

- .3 The county agency shall provide the claimant with all information and assistance regarding this withdrawal procedure.

22-007 CLAIMANT RESPONSIBILITY

22-007

.1 Form of Request for Fair Hearing

The claimant may request a fair hearing in writing, but that request need not be in any particular form. The county agency shall assist the claimant in filing his request for a fair hearing with the Chief Referee. A printed form provided by the State Department for such request may be given the claimant by the county agency upon his request for such action.

- .2 For the purpose of prompt action, the claimant shall be informed by the county agency that his request for a fair hearing should identify the aid program involved as well as the reason for his dissatisfaction with the particular action involved in the case.

22-009 TIME LIMIT ON REQUESTS FOR FAIR HEARING

22-009

- .1 The request for fair hearing must be filed within one year after the order or action with which the claimant is dissatisfied.
2. The date of the order or action on which the request for a fair hearing is based shall be the date on which notice of such order or action was mailed to the claimant with the following exceptions:

- .11 Where requests for a fair hearing concern the return of erroneous repayments the date of collection or the date of the last installment payment is the determining date.

Effective 9/3/71

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**CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

22-009 TIME LIMIT ON REQUESTS FOR FAIR HEARING (Continued)

22-009

.12 Where requests for a fair hearing concern the amount of the grant, the request must be filed within one year, but the period of review will extend back to the first day of the month in which the first day of the one-year period occurred.

.13 If the last day of the one-year period falls on a Saturday, Sunday or holiday, the request for a fair hearing may be filed on the next business day.

CHAPTER 22-020 COUNTY WELFARE AGENCY RESPONSIBILITY

22-020

22-021 EXPLANATION OF RIGHT TO FAIR HEARING

22-021

.1 The county agency must explain the right to request a fair hearing, as well as the right to be represented and assisted by persons of his own choosing, including legal counsel and an interpreter, to every applicant at the time of his application for assistance, and to an adult child liable for contributions at the time of any application which may result in such liability, and thereafter at any time when further county action respecting aid or services is taken. Such explanation shall be given in such manner as to be fully understood by the claimant.

.2 Written notice of the right to a fair hearing shall be included in every notification to the applicant or recipient of the granting, denial, decrease, discontinuance, suspension or increase in aid, or request for repayment, and to an adult child when the determination is made that he is liable for contributions or where there is a change in a prior county determination regarding aid. Such notice shall be in such form and in such language understandable to the person receiving such notification.

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Effective 9/3/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

22-021 EXPLANATION OF RIGHT TO FAIR HEARING (Continued)

22-021

- .3 The county agency must help, and assist in any way required, the claimant to submit and process his request for a fair hearing, and in preparing his case if such help is requested.

22-022 ASSISTANCE PENDING HEARING

22-022

- .1 Where the county action would result in a termination, suspension or reduction of an assistance grant, the county must mail to the person affected, at least fifteen days prior to the effective date of that action, a written notice which will include:
- .11 Explanation of the type of proposed action;
- .12 Explanation of the reason for the proposed action; and the state regulatory or statutory basis relied upon;
- .13 An explanation of the person's right to a conference, his right to request a Fair Hearing, and the circumstances under which assistance will be continued if a Fair Hearing is requested.
- .2 If, within the fifteen day period, the person affected indicates his wish for a conference, he or his authorized representative, will be given an opportunity by the county to discuss the problems, and will be given an explanation of the reasons for the proposed action, and will be permitted to show that the proposed action is incorrect.
- .21 During this conference, the person affected, will be permitted to speak for himself or be represented by legal counsel or by a friend or other spokesman.
- .22 The conference will not in any way diminish the person's right to a fair hearing.

DO NOT WRITE IN THIS SPACE

Effective 9/3/71

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

22-022 ASSISTANCE PENDING HEARING (Continued)

22-022

- .3 Where the person affected has filed his request for a fair hearing within the fifteen day period, the assistance will be continued, without change, until the fair hearing decision is rendered, unless prior thereto the Office of the Chief Referee, State Department of Social Welfare, determines that the issue involved in the fair hearing request is one of state policy and not one of fact or judgment in the individual case, including a question of whether State rules were correctly applied by the county to the facts of the case.

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE FAIR HEARING 22-023

.1 Preliminary Review

- .11 On receipt of the notification from the Office of the Chief Referee that a request for a fair hearing has been filed with that office, the county shall review the case. Such review will be conducted by a person who was not involved in making the original decision giving rise to the request for fair hearing. That person should have the authority from the county agency's director to make an independent adjustment of the matter without consultation or approval of any other county staff member, and must take such action to adjust the matter when appropriate, without undue delay. The county agency shall notify the Office of the Chief Referee immediately of any such adjustment action it may take in the matter.

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Effective 9/3/71

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(Pursuant to Government Code Section 11380.1)

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE FAIR HEARING 22-023
(Continued)

- .12 The county agency director, or the person specifically appointed by him, shall be responsible for the county action connected with each fair hearing request to insure full compliance with these regulations. Unnecessary hearings shall be eliminated whenever possible without depriving any claimant of his right to a fair hearing.
- .13 The county shall give special attention to discover:
 - .131 Failures of communication between the claimant and the agency.
 - .132 Erroneous application of the law or regulations to the particular case.
 - .133 Instances of incomplete casework.
- .14 Prior to its preparation of the Basis of Action as described below, the county agency shall complete an independent and impartial review of, and shall adjust, the matter if such action appears proper. Any adjustment action shall be immediately communicated to the Office of the Chief Referee.

.2 The Basis of Action

- .21 Within six calendar days after the receipt of notification that a fair hearing has been requested, the county agency shall send to the claimant and to the Office of the Chief Referee, copies of a summary entitled "Basis of Action," which shall first be reviewed by its director, or his designee, (see Section 22-023.1.12) and which must contain:

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FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE FAIR HEARING 22-023
(Continued)

- .211 A statement of the county agency action or actions on
which the claimant's request is based, including the date
of the action.
- .212 A clear and understandable statement in nontechnical language
of the specific reasons for the county action and of the
facts which support that action.

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(Pursuant to Government Code Section 11380.1)

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE FAIR HEARING 22-023
(Continued)

- .213 Where appropriate, citations of any statutory and regulatory authority used by the county to support its action.
- .214 A notification stating whether, within the knowledge of the county, that an interpreter will be necessary to assist the claimant in presenting his case, and whether the county will provide one.
- .22 If, prior to the hearing, the county agency determines that the claimant's eligibility is in question for some other reason than that stated in its Basis of Action, it shall send to the claimant and to the Office of the Chief Referee, a brief and clear supplement to that Basis of Action of the additional reason or reasons so that if necessary they may be considered at the hearing.
- .23 The Office of the Chief Referee shall advise the county agency of any deficiency in its Basis of Action summary, and shall require the county agency to correct that deficiency immediately.
- .3 Preparation for the Hearing - Prior to the fair hearing, the county welfare department may:
- .31 Hold a final interview between the county welfare director or other person to whom he has delegated the responsibility for the fair hearing, with the claimant to assure
- .311 that there is no misunderstanding, circumstance, or question that might be cleared to his satisfaction so as to eliminate the necessity of the hearing;
- .312 that the claimant clearly understands the basis of action and desires a hearing;

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(Pursuant to Government Code Section 11380.1)

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE FAIR HEARING 22-023
(Continued)

- .313 In cases in which the sole issue is degree of blindness or degree of disability, the final interview may be omitted in the discretion of the county if;
- a. There have been no developments such as receipt of additional medical reports not previously reviewed by the State Medical Review Team or changes in the living arrangements of the claimant since the filing of the request for hearing that should be discussed;
 - b. On the basis of the specific case record, a further interview appears to be a useless act.
- .32 Review the applicable State law, regulations and policies in light of the evidence. When assistance of the State Department of Social Welfare is required to clarify any question, such assistance shall be sought without delay.
- .33 Organize all oral and written evidence and plans for its presentation at the hearing to avoid unnecessary delay or duplication. Where county policy directives or instructions are involved in the matter, copies of those documents shall be presented at the hearing.
- .34 Arrange for the attendance of all necessary witnesses and the availability of all documents for presentation of the county's case, including notification to the Chief Referee, of any communication problem possessed by the claimant.

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(Pursuant to Government Code Section 11380.1)

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE FAIR HEARING 22-023
(Continued)

.35 If the issue is:

.351 amount of aid;

.352 grant adjustment; or

.353 demand for repayment;

prepare a complete final budget computation, month by month, for the period subject to review, and up to the date of hearing.

.36 Continue to remain in touch with the claimant, and to report without delay to the Chief Referee of the State Department of Social Welfare any change in the circumstances of the applicant or recipient, or in his address, or in any other area which might affect the necessity for or conduct of the hearing. This responsibility continues after the hearing, and at least until a decision is rendered.

.37 Arrange to have present at the hearing a county welfare department representative with full authority to make binding agreements and stipulations on behalf of the county welfare department.

22-025 HEARING NOT HELD IN COUNTY RESPONSIBLE FOR AID

22-025

.1 If the hearing is to be held in a county other than the responsible county, the welfare department of the latter county may elect any of the following procedures:

.11 send a welfare department representative, with the case record, to the hearing; or

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(Pursuant to Government Code Section 11380.1)

22-025 HEARING NOT HELD IN COUNTY RESPONSIBLE FOR AID (Continued)

22-025

- .12 include in the Basis of Action all of the information in the county welfare department's possession regarding the point or points at issue, both supporting and opposing the county welfare department's action, together with relevant dates and any argument the county welfare department desires to make and conclude with the statement that the county welfare department rests its case on the Basis of Action; or
- .13 send the case record, containing all relevant information in the county welfare department's possession, to the welfare department of the county in which the claimant is living, with the request that the second county welfare department represent the responsible county at the hearing. Such request should be made in sufficient time to allow the second county welfare department to arrange such representation or notify the first county welfare department of its inability to act. The first county welfare department would then, necessarily, follow one of the other two procedures.

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(Pursuant to Government Code Section 11380.1)

22-026 GROUP HEARINGS

22-026

- .1 The Chief Referee may schedule a series of individual requests for fair hearing for a group hearing when the sole issue set forth in those requests is one involving an agency policy, as he may deem appropriate.
- .2 When the Chief Referee takes such action, each claimant shall be given the right to an individual hearing, if he so desires, and shall not be required to participate in any group hearing.
- .3 The Chief Referee shall grant all requests for a single hearing submitted to him by any group of claimants whose dissatisfaction is solely with an agency policy.
- .4 In all group hearings, each individual claimant shall be permitted to present his own case, and shall be permitted to be represented by any person he may desire.

22-027 COMPLIANCE WITH STATE DEPARTMENT OF SOCIAL WELFARE DECISIONS

22-027

- .1 Immediately upon receipt of notice of the decision (excepting decisions rendered in appeals by an adult child liable for contributions, (see Section 22-027.3) the county shall comply with the decision and shall notify the Office of the Chief Referee by completing a compliance form issued by the State Department of Social Welfare or shall request a rehearing. If the decision is in favor of the claimant on the issue involved, but aid has not been paid by the county, the notice to the State shall include a complete statement of the new issues which resulted in further denial of aid. Such statement shall be prepared in the same form and fashion as the Basis of Action letter.

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(Pursuant to Government Code Section 11380.1)

22-027 COMPLIANCE WITH STATE DEPARTMENT OF SOCIAL WELFARE DECISIONS 22-027
(Continued)

- .2 The office of the Chief Referee shall review the compliance statement to assure that the county has correctly complied with the decision.
- .3 Within 30 days after the mailing to the county welfare department and the adult child, of the decision in cases involving an adult child liable for contributions to a parent, and in the event the adult child has not complied with the decision, the county welfare department shall initiate, through the appropriate county officer or agency, the legal action that is necessary in order that the adult child shall comply with the decision within a reasonable period of time.

22-040 STATE DEPARTMENT OF SOCIAL WELFARE RESPONSIBILITY 22-040

22-043 ACKNOWLEDGMENT OF REQUESTS FOR FAIR HEARING 22-043

- .1 A request for fair hearing filed with the Chief Referee shall be acknowledged by a written communication to the claimant and to the county welfare department.
- .2 The claimant shall also be provided with a brochure explaining the fair hearing process.

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(Pursuant to Government Code Section 11380.1)

22-045 SETTING THE HEARING

22-045

- .1 Place of Hearing - The place of hearing may be the county seat of the county in which the claimant is living at the time of the hearing, unless the county seat is unsuitable due to the health of the claimant, transportation problems, convenience of witnesses or other causes, but the place of hearing shall be convenient to the claimant. The hearing may be held in the claimant's home if he is unable to leave the home.
- .2 Notification - The Office of the Chief Referee shall mail or deliver to the claimant and his authorized representative, if any, and the county a written notice of the time and place of the hearing not less than 10 days prior to the hearing.

22-047 HEARING CONDUCTED BY THE STATE DEPARTMENT OF SOCIAL WELFARE

22-047

All hearings shall be conducted by the referee unless the Director orders that it shall be conducted by himself or by the Chief of the Legal Office of the department in behalf of the Director.

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(Pursuant to Government Code Section 11380.1)

22-049 THE HEARING - GENERAL RULES AND PROCEDURE

22-049

- .1 Attendance at the hearing shall be limited to those directly concerned, namely, the claimant and his representative, interpreter if any and witnesses; representatives of the county welfare department; the State Department of Social Welfare representatives and the referee. The referee, or other person conducting the hearing, shall exclude unauthorized persons from the hearing unless both principals agree to their presence. Appearance by the claimant (in person or by representative) is required at the hearing. County welfare department representation is also required. (See Section 22-025, Hearing Not Held in County Responsible for Aid.)
- .2 The hearing shall be conducted in an impartial manner. All testimony shall be submitted under oath or affirmation.
- .3 The proceedings at the hearing shall be reported by a phonographic reporter or otherwise perpetuated by mechanical, electronic, or other means capable of reproduction or transcription.
- .4 The referee shall not be bound by the rules or procedure or evidence applicable in courts.
- .5 The claimant or his authorized representative shall, upon request, be given the opportunity to examine at any time before and during the hearing, all evidence used by the county welfare department to support its decision and all documentary evidence that will be used at the hearing.

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(Pursuant to Government Code Section 11380.1)

22-049 THE HEARING - GENERAL RULES AND PROCEDURE
(Continued)

22-049

- .6 Before the hearing has commenced, the Chief Referee or his designee, shall, upon the request of the claimant or his duly authorized representative, or the county welfare department, issue a subpoena requiring the presence of any witness whose expected testimony has been shown to be necessary and material to the case, without being unduly repetitious, or a subpoena duces tecum requiring the production of documents shown to be relevant and material. After the hearing has commenced, the referee assigned to the case shall issue such subpoenas as he may deem necessary and proper. The party requesting the subpoena is responsible for service of such document. Payment of any fee for such service by the claimant or his duly authorized representative will be made under the provisions of 45 CFR 205.10 (b) (4) (ii and iii).
- .7 An interpreter shall be provided by the state if the referee considers this necessary.

22-051 CLAIMANT LIVING OUTSIDE OF CALIFORNIA

22-051

- .1 When a request for fair hearing is received from a person living outside of the state, it shall be acknowledged and reported in the same manner as other requests for fair hearing. Unless the claimant voluntarily offers to return to California for the hearing or authorizes a representative in California, the county welfare department shall be advised that the hearing will be processed by questionnaire.

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(Pursuant to Government Code Section 11380.1)

22-051 CLAIMANT LIVING OUTSIDE OF CALIFORNIA
(Continued)

22-051

- .2 A questionnaire consists of a written series of questions to be answered by claimant in writing and sworn to before a notary. The completed questionnaire properly attested and submitted shall constitute his appearance and testimony in the hearing. The questions to be included in the questionnaire are to be prepared jointly by the county welfare department and the State Department of Social Welfare. It shall be the responsibility of the State Department of Social Welfare to initiate discussion with the county welfare department regarding preparation of the questions to be included. The county welfare department shall submit the questions it wants answered.
- .3 To meet statutory requirements for fair hearings, the questionnaire should be in the hands of the claimant on or before the 45th day after the request for fair hearing is filed.

22-053 CONTINUANCE FOR ADDITIONAL EVIDENCE

22-053

- .1 If, after a hearing has begun, the referee conducting the hearing determines that additional evidence not available at the hearing is necessary for the proper determination of the case, he may in his discretion:
- .11 Continue the hearing to a later date. In connection therewith, he may order further investigation and may direct either party to produce the additional evidence.

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(Pursuant to Government Code Section 11380.1)

22-053 CONTINUANCE FOR ADDITIONAL EVIDENCE (Continued)

22-053

- .12 Close the hearing and hold the record open for a period not to exceed seven calendar days in order to permit the reception of additional documentary evidence. Any material submitted after the close of the hearing shall be made available both to the county welfare department and to the claimant and each shall have the opportunity for rebuttal. The referee conducting the hearing may order a further hearing if the nature of the additional information or the refutation thereof makes a further hearing desirable.

22-054 ADDITIONAL MEDICAL EVIDENCE

22-054

When the hearing involves medical issues, a medical assessment other than that of the person or persons involved in making the original medical assessment will be obtained by the county from a source satisfactory to the claimant and will be made part of the record if the referee or claimant considers it necessary.

22-055 WITHDRAWAL OR ABANDONMENT

22-055

- .1 A request for a fair hearing shall not be dismissed without hearing unless the claimant either withdraws or abandons the request.
- .2 A withdrawal occurs when the Chief Referee is notified by the claimant that he no longer wishes a hearing.
- .3 An abandonment occurs when:
- .31 The claimant fails to appear at the hearing without good cause.
- .32 The claimant cannot be located through his last address of record anytime after his request for fair hearing is received.

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(Pursuant to Government Code Section 11380.1)

22-056 DISPOSITION OF FAIR HEARING MATTERS

22-056

- .1 All fair hearing matters will be set for hearing, heard, and disposed of by fair hearing decision within 60 days from the date of the request for fair hearing, except in those cases where the claimant withdraws or abandons his request for hearing, or the matter is continued for good cause. This overall 60 day time limit shall be extended only for the period of the continuance.

22-057 SUBMISSION OF PROPOSED DECISION

22-057

- .1 After the hearing has been closed, the referee shall issue his proposed decision for review by the Chief Referee and submission to the Director, State Department of Social Welfare.

22-059 DECISION BY DIRECTOR OF THE STATE DEPARTMENT OF SOCIAL WELFARE 22-059

- .1 The Director of the State Department of Social Welfare, after receiving the proposed decision, may:
- .11 Adopt the decision in its entirety;
 - .12 Decide the matter himself on the record, including the transcript, with or without taking additional evidence;
 - .13 Order another hearing to be conducted by himself, the Chief of the Legal Office, or another referee, if overall time limitations for disposition of fair hearing matters so permit.
- .2 The decision of the Director of the State Department of Social Welfare shall be in writing. It shall include a statement of the facts and of the statutes and regulations involved and of the reasoning which supports the decision.
- .3 No decision shall remand the case to the county welfare department for further consideration of the issues involved.

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(Pursuant to Government Code Section 11380.1)

22-059 DECISION BY DIRECTOR OF THE STATE DEPARTMENT OF SOCIAL WELFARE 22-059
(Continued)

- .4 The decision shall determine only those circumstances and issues involved in the period up to the date of the close of the proceedings before the referee and is not applicable to periods after that date where there has been a change in the circumstances involved in the decision.

22-061 NOTICE OF DECISION 22-061

- .1 After the referee's proposed decision is adopted, or an alternate decision is rendered by the Director, the Office of the Chief Referee shall mail a copy to the claimant, and the county welfare director. The notice of decision shall also contain a statement explaining the right to request rehearing.
- .2 If the Director decides the matter and his decision differs materially from the proposed decision, a copy of the proposed decision shall also be mailed to the claimant, and the county welfare director.

22-063 PRESERVATION OF RECORD 22-063

- .1 The verbatim record of the testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, and the referee's proposed decision shall constitute the exclusive record for decision and shall be available to the claimant and the county at any reasonable time for one year after the date of the Director's decision in the case.

22-065 REHEARING 22-065

- .1 A request for rehearing must be filed in writing with the Office of the Chief Referee within 30 days after adoption by the Director or the issuance by the Director of his own decision and must contain a statement of reasons therefore.

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(Pursuant to Government Code Section 11380.1)

22-065 REHEARING

22-065

(Continued)

- .2 If the request for rehearing is to permit presentation of additional evidence, the request shall:
- .21 Describe the additional evidence;
 - .22 Show why it was not previously introduced;
 - .23 Explain its materiality.
- .3 The Director shall grant or deny the request within fifteen working days after it is filed with the Chief Referee.
- .4 If a request for a rehearing is granted, the Director may:
- .41 Order reconsideration of the decision on the basis of the evidence in the record;
 - .42 Order the taking of additional evidence;
 - .43 Order an entire new hearing.
- .5 A decision issued upon a rehearing shall not be subject to further hearing
- .6 When a request for rehearing is denied, the notice of denial shall contain a statement concerning the right to judicial review, and shall advise the client that, if the court decides the case in his favor, he will be entitled to reasonable attorney's fees and the cost of suit.

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(Pursuant to Government Code Section 11380.1)

22-067 STIPULATED DECISIONS

22-067

- .1 Stipulated decisions are decisions in which the county welfare department involved cannot adjust by administrative action alone. When the county welfare department determines that adjustment is possible but cannot be effected without department concurrence, the claimant is asked to sign a conditional withdrawal (Form Gen M 29A, Conditional Withdrawal of Appeal). The county welfare department then presents the facts to the State Department of Social Welfare by letter and requests concurrence in the recommended adjustment. If the State Department of Social Welfare concurs, the county welfare department is authorized to make the adjustment. (In degree of blindness appeals this process is reversed -- i.e., the State Department of Social Welfare notifies the county welfare department of the result of the eye examinations and recommends adjustment, if the county agrees.)
- .2 If the adjustment is not satisfactory to the claimant, he may file a new request, reactivating his original request within 60 days of the county welfare department's notification.

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DEPARTMENT OF SOCIAL WELFARE

744 P STREET
SACRAMENTO 95814

September 1, 1971

RECEIVED FOR FILING

SEP 15 1971

Office of Administrative Procedure

FILEDIn the office of the Secretary of State
of the State of California

SEP 16 1971

At 8:40 o'clock A. M.

EDMUND G. BROWN Jr., Secretary of State

By *[Signature]*
Deputy Secretary of StateDECLARATION OF FORMAL ACTION TO ADJUST GRANT MAXIMA TO REFLECT
COST-OF-LIVING INCREASES

Pursuant to provisions of Sections 12150, 12151, 12650, 12651, 13100, 13101, 13700 and 13701 of the Welfare and Institutions Code, the Consumer Price Index of the United States Bureau of Labor Statistics has been reviewed. The Consumer Price Index for California, computed as directed in the Welfare and Institutions Code is 141.15. The Statewide Index of 141.15 results in a \$5 cost-of-living increase for Old Age Security and Aid to the Disabled programs, and a \$6 cost-of-living increase for the Blind Aid programs effective December 1971. These increases are predicated on an average of the separate indices for Los Angeles and San Francisco as published by the United States Bureau of Labor Statistics for the previously selected base month of June 1971.

Old Age Security

The percentage increase of the June 1971 Consumer Price Index is 32.97 percent over the December 1961 base of 106.15. When applied to \$100, the increase is \$32.97; when \$27.50 which has already been given is deducted, the balance is \$5.47. The cost-of-living increase to be effective December 1971, rounded to the nearest dollar, is \$5.

Blind Aid Programs

The percentage increase of the June 1971 Consumer Price Index is 36.18 percent over the December 1959 base of 103.65. When applied to \$115, the increase is \$41.61; when \$35.50 which has already been given is deducted, the balance is \$6.11. The cost-of-living increase to be effective December 1971, rounded to the nearest dollar, is \$6.

Aid to the Disabled

The percentage increase of the June 1971 Consumer Price Index is 29.14 percent over the December 1963 base of 109.30. When applied to \$100, the increase is \$29.14; when \$24.50 which has already been given is deducted, the balance is \$4.64. The cost-of-living increase to be effective December 1971, rounded to the nearest dollar is \$5.

Based on the above finding, I, Robert Carleson, as Director of the State Department of Social Welfare, hereby declare and direct that the maximum grants in the Old Age Security, Aid to the Blind, and Aid to the Potentially Self-Supporting Blind programs, and the maximum average grant in the Aid to the Disabled program be increased as set forth below, effective December 1, 1971:

	<u>From</u>	<u>Increased</u> <u>To</u>
Old Age Security, pursuant to Sec. 12150	\$136.00	<u>\$141.00</u>
Old Age Security, pursuant to Sec. 12151	201.00	<u>206.00</u>
Aid to the Blind, pursuant to Sec. 12650	159.00	<u>165.00</u>
Aid to the Blind, pursuant to Sec. 12651	209.00	<u>215.00</u>
Aid to Potentially Self-Supporting Blind pursuant to Sec. 13100	159.00	<u>165.00</u>
Aid to Potentially Self-Supporting Blind pursuant to Sec. 13101	209.00	<u>215.00</u>
Aid to the Disabled, pursuant to Sections 13700 and 13701 (<u>Average</u> grants computed statewide for all recipients)	128.00	<u>133.00</u>

Sincerely,



ROBERT B. CARLESON
Director of Social Welfare